

# Housing Counseling: Background and Federal Role

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## Summary

The term “housing counseling” refers to a wide variety of educational activities geared toward homebuyers, homeowners, renters, senior citizens, or other populations with particular housing goals. Some potential topics of housing counseling include pre-purchase counseling for potential homebuyers; post-purchase counseling on subjects such as budgeting or home maintenance; foreclosure prevention counseling; counseling on helping renters find or maintain rental housing; and counseling on fair housing, predatory lending, or other topics, among other things. The federal government does not provide housing counseling directly, nor does it require housing counseling for most housing-related decisions. Rather, the federal government provides some support for private housing counseling programs, primarily through the Department of Housing and Urban Development (HUD). HUD certifies housing counseling organizations that meet certain criteria, and Congress appropriates funding to HUD each year to provide competitive grants to housing counseling agencies that have been certified by the department. Not all housing counseling agencies that are approved by HUD will receive federal housing counseling grants. Even for organizations that do receive grants from HUD, federal funding generally makes up a relatively small part of their total funding.

Housing counseling agencies that are approved by HUD can be one of two basic types. The first type consists of local housing counseling agencies or multi-state organizations, which generally provide counseling directly through only one or a few branch offices located in a limited geographic area. Local housing counseling agencies and multi-state organizations generally apply for HUD housing counseling grants on their own behalf. Alternatively, HUD-approved housing counseling agencies can be national or regional intermediaries, which provide funding and technical support for housing counseling to a network of affiliates and branch offices that operates in a much larger geographic area. National and regional intermediaries apply for HUD housing counseling grants on behalf of their affiliates and branches, and pass through funding they receive to their network of organizations.

Congressional appropriations for HUD’s housing counseling program had increased significantly in recent fiscal years, until Congress opted not to fund HUD’s housing counseling program in FY2011. Congress did provide funding for this program in FY2012. Since FY2008, Congress has also appropriated additional housing counseling funds specifically for counseling to help households avoid foreclosure. Rather than appropriating this foreclosure mitigation funding to HUD, Congress has appropriated it to NeighborWorks America, a government-chartered nonprofit agency that is also a HUD-certified national intermediary. NeighborWorks administers this funding through the National Foreclosure Mitigation Counseling Program (NFMCP).

Issues currently facing the housing counseling industry include efforts to standardize housing counseling curricula and counselor training, the amount of housing counseling funding, and questions regarding counseling’s effectiveness. While some studies have suggested that some types of housing counseling produce positive outcomes in certain circumstances, existing research into housing counseling tends to be limited, and the overall effectiveness of housing counseling is unclear.

This report describes housing counseling in general, with a focus on HUD’s processes for certifying housing counseling agencies and distributing housing counseling funding. It also provides a brief overview of other sources of federal funding for housing counseling activities, including the NFMCP, and discusses current issues surrounding housing counseling.

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## Introduction

Housing counseling organizations provide information on a wide range of housing issues to a variety of populations. Prospective homebuyers, current homeowners, renters, and the homeless are all examples of populations that may seek housing counseling. In general, the federal government does not provide housing counseling services directly. Rather, the federal government provides some financial support for private housing counseling agencies, primarily through the Department of Housing and Urban Development (HUD).

HUD supports housing counseling activities in two main ways. First, it certifies housing counseling agencies that meet certain criteria and lists the contact information for these HUD-approved agencies on the HUD website. Second, since the late 1970s Congress has usually appropriated funding for housing counseling to HUD during the annual appropriations process, and HUD has used this funding to provide competitive grants to housing counseling agencies. Only agencies that are certified by HUD are eligible to apply for these grants. However, not all agencies that are certified by HUD are guaranteed to receive a grant. Furthermore, HUD's housing counseling grants do not cover housing counseling agencies' full costs; even agencies that receive grants through HUD generally get most of their funding from other sources. The amount of funding appropriated for HUD's housing counseling program fluctuates from year to year. Over the last decade, appropriations for housing counseling generally increased, sometimes sharply. However, Congress opted not to provide any funding for HUD's housing counseling program in FY2011. It again provided funding for the program in FY2012.

Separate from HUD's housing counseling program, Congress has appropriated additional housing counseling funding specifically for foreclosure mitigation counseling since FY2008. Congress has appropriated this funding to NeighborWorks America, a federally chartered nonprofit agency with a nationwide network of affiliated organizations. NeighborWorks administers this funding through the National Foreclosure Mitigation Counseling Program.

Housing counseling can also be considered part of the broader category of financial education. In addition to HUD's housing counseling program and NeighborWorks, the Department of Veterans Affairs, the Department of the Treasury, and the Department of Defense all provide some support for housing counseling, or for broader financial counseling programs that may include housing counseling, that is aimed at specific groups.

While housing counseling is generally a voluntary activity, the federal government and some state, local, and private entities do require housing counseling as a condition for participating in certain programs. These requirements are another way in which the federal government supports housing counseling, because such requirements both increase the demand for housing counseling and make the provision of counseling a more mainstream activity. However, the federal government does not always provide additional funds to housing counseling agencies to go along with requirements for counseling, so such conditions could have the effect of requiring agencies to counsel more people while spending less time and money on each individual.

This report provides a broad overview of what housing counseling is, with a specific focus on how the federal government supports housing counseling activities. It describes how housing counseling organizations become eligible for federal housing counseling funds, particularly through HUD, and how those funds are distributed. It also analyzes which counseling organizations are receiving federal funds and how those funds are used.

## Background

This section broadly describes housing counseling. It discusses what housing counseling is and how it is carried out, the populations that tend to receive housing counseling, and the types of organizations that provide it. This section is meant to provide a general overview of the housing counseling industry and is not intended to be exhaustive.

### What is Housing Counseling?

Housing counseling is related to the broader concept of financial literacy counseling, which is intended to help individuals and families set budgets, manage their finances, and understand complex financial concepts in order to promote sound decisions on financial matters. Housing counseling can be provided as part of, or in tandem with, financial counseling, and there is some overlap between the two types of counseling (e.g., learning to budget in order to save for a downpayment on a home is a concept that could be considered part of either financial literacy or housing counseling). Financial literacy counseling can include information on housing, and particularly homeownership. However, housing counseling generally refers to a more specific type of counseling that focuses on housing-related decisions, and information on financial concepts or financial literacy is generally provided in the context of informing these housing-related decisions. Some organizations might provide both housing counseling and financial literacy counseling more broadly, while others might focus on one or the other.

Housing counseling is itself a broad term that can refer to a wide variety of activities. It can include counseling for a range of populations with distinct housing goals, such as people looking to buy a home, current homeowners, renters, the homeless, senior citizens seeking reverse mortgages, or other groups. Much housing counseling focuses on homebuyers either before or after they buy a home, and this type of counseling often targets first-time homebuyers.

Traditionally, housing counseling for current or prospective homeowners has been divided into the broad categories of pre-purchase and post-purchase counseling. Even within these specific categories, housing counseling can refer to a wide range of specific topics. For example, pre-purchase counseling can refer to financial literacy or money management counseling; the responsibilities of homeownership; information on specific housing programs; or assistance in reviewing individual loan documents, among other issues. Post-purchase counseling can include counseling on maintenance and repairs; budgeting; or resolving mortgage delinquency, among other issues. Housing counseling curricula are not standardized across the industry. The specific issues covered by housing counseling will depend on the person receiving counseling and the organization providing the counseling.

Although much housing counseling focuses on either current or prospective homeowners, it is not limited to these groups. Housing counseling for renters can help tenants learn about HUD housing programs, navigate housing issues, or learn about fair housing laws. Mobility counseling can assist Section 8 voucher holders in their search for suitable housing, and in particular, housing in communities with low concentrations of poverty.<sup>1</sup> Housing counseling for the homeless can help people search for housing or access needed services. Housing counseling for senior citizens seeking reverse mortgages can help seniors understand the terms of reverse mortgages and provide information on possible alternatives to reverse mortgages.

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<sup>1</sup> For more information on the issue of mobility in the Section 8 program, see CRS Report RL34002, *Section 8 Housing Choice Voucher Program: Issues and Reform Proposals*, by Maggie McCarty.

In addition to the variety of topics that housing counseling can cover, there is a wide range of ways in which housing counseling can be provided. Some ways in which the provision of counseling can vary include the following:

- **Setting:** Counseling can take place individually or in group sessions. In general, group sessions that cover broad topics are referred to as “education,” while individual sessions that are more tailored to an individual’s circumstances are referred to as “counseling.”
- **Method:** Counseling can happen in person or over the telephone, or it can consist of self-study on a computer or through the completion of a workbook.
- **Length of time:** Counseling can vary widely in its intensity, and can include anywhere from one session to several sessions spread out over a number of weeks or months.

While housing counseling can take many forms, HUD generally holds that individual, face-to-face counseling is the preferable form of counseling in most situations. HUD-approved agencies are expected to provide counseling in this manner if their clients prefer it. However, HUD recognizes that in some situations face-to-face counseling may not be the most feasible option, and therefore it allows other forms of counseling as well.<sup>2</sup> Situations in which face-to-face counseling may not be feasible include counseling people living in geographic areas not served by a HUD-approved agency, counseling seniors or persons with disabilities who may prefer to receive counseling over the phone, and counseling people facing foreclosure who may not have time to travel to in-person counseling sessions. HUD does allow group education classes, but topics covered in these classes must be offered in individual counseling sessions as well.<sup>3</sup>

## What is the Goal of Housing Counseling?

Supporters of housing counseling programs believe that counseling can help households achieve a range of positive housing outcomes. These outcomes can range from helping households make more sound decisions regarding their choices of homes and mortgage products, helping some households choose to delay the decision to purchase a home until their circumstances are more favorable for homeownership, helping households to avoid default or foreclosure, and helping renters to find suitable housing units.

Housing counseling for homebuyers (both pre-purchase and post-purchase) is thought by many to provide certain benefits to both the homebuyer and the mortgage lender. Supporters of housing counseling believe that pre-purchase counseling can better prepare homebuyers to understand their mortgage terms and the responsibility of owning a home, and to better deal with unexpected circumstances that could lead to mortgage default. These supporters also argue that housing counseling helps lenders, both by reducing mortgage default rates and by screening out borrowers who are not ready for homeownership before they seek a mortgage. Post-purchase counseling is thought by many to help reduce mortgage delinquencies by helping households manage circumstances that could lead to default or, in the case of foreclosure mitigation counseling, helping homeowners work with their lenders to cure a mortgage delinquency.

While there are many potential benefits of housing counseling, critics point out that the research on housing counseling outcomes is limited, and that it is not clear that housing counseling is

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<sup>2</sup> See HUD’s Housing Counseling Program Final Rule, Section II B at <http://www.hud.gov/offices/hsg/sfh/hcc/final.pdf> and 24 C.F.R. §214.300(a)(3).

<sup>3</sup> 24 C.F.R. §214.300(a)(6).



effective in realizing these potential benefits. (See “Brief Overview of the Literature on Housing Counseling Effectiveness” for a fuller discussion of the research on housing counseling.) There is little consensus on which types of housing counseling may lead to the best outcomes, or even what a successful outcome is. Furthermore, pre-purchase counseling often happens after, not before, a borrower has already decided on a specific home and mortgage. This could limit the potential benefits that pre-purchase counseling may offer in the form of helping borrowers navigate the homebuying process or choose an appropriate mortgage, or in screening out borrowers who are unprepared for homeownership.

## Who Receives Housing Counseling?

As described in the previous sections, a variety of populations may seek housing counseling. In general, housing counseling is a voluntary activity. However, there are some housing programs, federal and otherwise, that require housing counseling as a condition of participation. Some examples of such programs include the following, although this list is not exhaustive:

- Section 255 of the National Housing Act requires senior citizens to receive housing counseling in order to be eligible for a Home Equity Conversion Mortgage (HECM).<sup>4</sup> HECMs are reverse mortgages insured by the Federal Housing Administration (FHA).<sup>5</sup>
- The United States Department of Agriculture (USDA) requires housing counseling for first-time homebuyers under its Section 502 direct loan program.<sup>6</sup>
- By law, housing counseling is required as a condition for participating in HUD’s Homeownership Voucher Program, an extension of the Housing Choice Voucher Program (commonly known as Section 8).<sup>7</sup> If the local Public Housing Authority (PHA) allows it, the Homeownership Voucher Program allows some first-time homebuyers who meet certain income and employment requirements to use their Housing Choice vouchers to assist with monthly payments on a purchased home rather than to assist with monthly rent payments.
- Housing counseling is required for certain participants in the Home Affordable Modification Program (HAMP), a temporary federal program intended to prevent foreclosures by providing incentives to mortgage servicers and investors to modify loans in a way that lowers eligible borrowers’ monthly mortgage payments.<sup>8</sup> Homeowners who have their mortgages modified under HAMP are required to state in writing that they will receive housing counseling if their total debt-to-income ratio is 55% or higher after the modification. Counseling is encouraged, but not required, for other participants in HAMP.

<sup>4</sup> 12 U.S.C. 1715z-20(d)(2)(B) specifies that homeowners must receive counseling to be eligible for a HECM, and 12 U.S.C. 1715z-20(f) specifies the topics that counseling must cover.

<sup>5</sup> For more information on reverse mortgages in general and HECMs in particular, see CRS Report RL33843, *Reverse Mortgages: Background and Issues*, by Bruce E. Foote.

<sup>6</sup> 7 C.F.R. §3550.1 and §3550.53(i), and USDA Rural Development Handbook HB-1-3550, Chapter 6, “Underwriting the Loan,” available at <http://www.rurdev.usda.gov/regs/hblist.html>.

<sup>7</sup> 42 U.S.C. 1437f(y)(1)(D) and 24 C.F.R. §982.630.

<sup>8</sup> For more information on the counseling requirement under HAMP, see Supplemental Directive 09-01, “Introduction of the Home Affordable Modification Program,” April 6, 2009, p. 11, [https://www.hmpadmin.com/portal/docs/hamp\\_servicer/sd0901.pdf](https://www.hmpadmin.com/portal/docs/hamp_servicer/sd0901.pdf). For more information on HAMP in general, see CRS Report R40210, *Preserving Homeownership: Foreclosure Prevention Initiatives*, by Katie Jones.



- HUD requires homebuyers who purchase homes that have used funds provided through the Neighborhood Stabilization Program (NSP) to participate in housing counseling through a HUD-approved housing counseling agency.<sup>9</sup> The Housing and Economic Recovery Act of 2008 (P.L. 110-289) established NSP, which provides certain communities with funding to purchase and redevelop abandoned and foreclosed residential properties.
- The Federal Home Loan Banks (FHLBs) are required to set aside 10% of their net income each year for their Affordable Housing Program (AHP), which consists of both a competitive grant program that is mandatory for the FHLBs and a homeownership set-aside program that is voluntary.<sup>10</sup> The FHLBs must require housing counseling for first-time homebuyers who receive assistance through the homeownership set-aside portion of the AHP. At their discretion, the FHLBs may choose to require housing counseling for some or all homebuyers assisted through the competitive grant portion of the AHP as well.<sup>11</sup>
- Fannie Mae and Freddie Mac have historically required housing counseling for some borrowers who use certain affordable mortgage products that they offer. This means that lenders who originate these types of mortgage products must ensure that these borrowers receive counseling if the lender ultimately intends to sell the loan to Fannie Mae or Freddie Mac. For example, Fannie Mae currently requires housing counseling as a condition for first-time homebuyers, or homebuyers relying on non-traditional credit, who use its MyCommunity Mortgage product. Freddie Mac requires counseling for first-time homebuyers using its Home Possible Mortgages.<sup>12</sup>
- Many state housing finance agencies (SHFAs) offer low-cost mortgage programs for certain populations of low- or moderate-income households. Many SHFAs encourage housing counseling for participants in their programs, and some of these programs may require housing counseling as a condition of the mortgage, at least for certain subsets of homebuyers (such as those who receive downpayment assistance, those who put down small downpayments, or first-time homebuyers).
- While FHA generally does not require counseling (except for HECMs), FHA is allowed to charge lower upfront insurance premiums to borrowers of FHA-insured mortgages who receive housing counseling that meets certain standards.<sup>13</sup>

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<sup>9</sup> See U.S. Department of Housing and Urban Development, “Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes Grantees Under the Housing and Economic Recovery Act of 2008; Notice,” 73 *Federal Register* 58330-58349, October 6, 2008.

<sup>10</sup> The FHLBs are 12 regional banks that were created by Congress to help provide local lending institutions with funds to use for affordable housing and community development. The mandatory competitive grant portion of the AHP provides grants to organizations that provide low- or moderate-income housing, and the voluntary homeownership set-aside program helps low- and moderate-income families purchase homes. Each FHLB currently operates a set-aside program.

<sup>11</sup> 12 C.F.R. §951.5.

<sup>12</sup> See Fannie Mae’s MyCommunity Mortgage Product Matrix at <https://www.efanniemae.com/sf/mortgageproducts/pdf/mcmproductmatrix.pdf>, and Freddie Mac’s homeownership education requirements for Home Possible Mortgages at [http://www.freddie.mac.com/sell/factsheets/pdf/home\\_possible\\_education\\_requirements\\_748.pdf](http://www.freddie.mac.com/sell/factsheets/pdf/home_possible_education_requirements_748.pdf).

<sup>13</sup> In response to a finding that many FHA borrowers were merely being provided with cursory housing counseling, such as being asked to complete workbooks, FHA required that housing counseling must be delivered face-to-face, in a classroom, or on a computer, and must last at least 15 to 20 hours. See FY2009 Actuarial Review of MMIF Excluding

FHA does not currently use this authority, and it charges the same premiums to homebuyers regardless of whether they receive counseling.<sup>14</sup>

- The Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) amended the Truth in Lending Act (TILA) to include a requirement that borrowers who receive high-cost mortgages, as defined by TILA, receive pre-purchase housing counseling from a HUD-approved housing counseling agency before receiving such a mortgage.<sup>15</sup> High-cost mortgages are mortgages where the annual percentage rate (APR) or points and fees paid at closing exceed certain thresholds or mortgages that include certain types of prepayment penalties.

Since housing counseling is not usually required by the federal government for most housing decisions, but may be required for certain types of mortgage products, most people who seek housing counseling usually do so voluntarily and/or so they can be eligible for a certain program. Some lenders may also encourage homebuyers to seek housing counseling. Most HUD-approved housing counseling agencies primarily serve prospective homebuyers or current homeowners, including seniors seeking HECMs. While HUD provides funding for counseling renters and the homeless, these groups make up a relatively small portion of the total number of people counseled by HUD-approved agencies. For example, in FY2011 less than a fifth of the total number of counseling activities carried out by HUD-approved counseling agencies were for rental or homelessness counseling. Rental counseling made up about 15% of the total amount of counseling activities, while counseling for the homeless made up about 2% of counseling activities.<sup>16</sup>

## Who Provides Housing Counseling?

Housing counseling is provided by many different types of organizations. Housing counseling can be provided by for-profit organizations, such as banks, or by nonprofit organizations, such as advocacy groups. However, only nonprofit organizations can be certified by HUD and therefore be eligible for HUD grants. Housing counseling agencies also vary in size, from small community-based organizations to large organizations with a national reach. Some agencies specialize in housing counseling, while for others providing housing counseling is only part of an agency's mission (for example, the National Council of La Raza, Catholic Charities USA, and the National Association of Real Estate Brokers are all HUD-approved housing counseling intermediaries that have broader missions than housing counseling alone). Furthermore, some agencies specialize in one particular type of housing counseling (such as HECM counseling or foreclosure mitigation counseling), while other agencies provide counseling on a range of housing issues (called "comprehensive counseling" by HUD). As mentioned above, some

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HECMs, p. 3-4, [http://portal.hud.gov/portal/page/portal/HUD/federal\\_housing\\_administration/docs/hecmreview.pdf](http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/docs/hecmreview.pdf).

<sup>14</sup> At one point, FHA did charge different upfront mortgage insurance premiums to borrowers who received counseling and borrowers who did not. FHA reduced the upfront mortgage insurance premium for first-time homebuyers who received housing counseling in 1996, but in 2001, it reduced the upfront insurance premium for all borrowers and stopped charging different premiums to those who did or did not receive counseling. For more information, see FHA Mortgagee Letter 96-48 and FHA Mortgagee Letter 00-38, available at <http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/>.

<sup>15</sup> 15 U.S.C. 1639(u), as added by Sec. 1433(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

<sup>16</sup> See HUD's FY2011 Cumulative Report, available at <http://portal.hud.gov/hudportal/documents/huddoc?id=AllCumulative11Q4.pdf>. These numbers include all counseling activities undertaken by HUD-approved housing counseling agencies, not just activities attributable to HUD housing counseling funds.

organizations that provide financial literacy counseling more broadly may offer housing counseling as well.

Housing counseling agencies that are approved by HUD may differ from other housing counseling agencies in important ways. For example, HUD-approved agencies are required to be nonprofit private or public organizations. However, a non-trivial portion of housing counseling is done by for-profit organizations, such as banks, mortgage insurers, and other financial institutions, according to a 2008 Abt Associates study prepared for HUD.<sup>17</sup> Furthermore, the distribution of the types of housing counseling services that HUD-approved agencies provide may differ from the types of counseling provided by agencies that are not approved by HUD. Finally, HUD strongly encourages face-to-face counseling, and therefore HUD-approved agencies may be more likely to provide individualized in-person counseling than other agencies. Housing counseling organizations that are not approved by HUD may be more likely to provide more telephone counseling, group education classes, or self-study through computer programs or workbooks.

While HUD has certain requirements regarding the provision of housing counseling, there are no agreed-upon curricula that all housing counselors are required to follow, and there are no standard training requirements for housing counselors, either among HUD-approved agencies or the industry as a whole. Some organizations have attempted to standardize housing counseling training and curricula in the past. Currently, NeighborWorks America is one organization that encourages standardized requirements through its NeighborWorks Center for Homeownership Education and Counseling. (For more information on the movement to standardize the provision of housing counseling and the training of housing counselors, see “Standardizing Training and Services” later in this report.)

## **Brief Overview of the Literature on Housing Counseling Effectiveness**

While some studies have been done on whether housing counseling affects housing outcomes, most of these studies have been limited in scope. This section provides a brief review of the existing literature on the effectiveness of housing counseling; it is not intended to be exhaustive.

A number of studies on the effectiveness of different types of housing counseling programs, and homeownership counseling in particular, were done in the 1970s and early 1980s; many of these studies were funded by HUD.<sup>18</sup> Some of these early studies found some evidence that both pre-purchase and post-purchase counseling could have some positive outcomes, such as reduced default or foreclosure rates. However, most of the studies done in this time period had a limited focus that made it hard to generalize the results, and the studies defined success in many different ways. Furthermore, a number of these studies had significant methodological problems. A 2001

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<sup>17</sup> Christopher E. Herbert, Jennifer Turnham, and Christopher N. Rodger, “The State of the Housing Counseling Industry,” prepared for the U.S. Department of Housing and Urban Development by Abt Associates Inc., September 2008, p. 16, [http://www.huduser.org/Publications/PDF/hsg\\_counsel.pdf](http://www.huduser.org/Publications/PDF/hsg_counsel.pdf).

<sup>18</sup> Alan Mallach, “Home Ownership Education and Counseling: Issues in Research and Definition,” prepared for the Federal Reserve Bank of Philadelphia, 2001, p. 4, <http://www.phil.frb.org/community-development/publications/discussion-papers/homeowner.pdf>.

review of the literature describes the overall results of these early studies as “highly ambiguous.”<sup>19</sup>

After the early 1980s, there were very few empirical studies on housing counseling effectiveness until the mid- to late 1990s. Since then, a new wave of studies has been done to examine whether housing counseling achieves the desirable outcomes its advocates expect it to produce. One often-cited study was published in 2001, when Abdighani Hiram and Peter M. Zorn looked at whether housing counseling reduced default rates among homeowners using Freddie Mac’s Affordable Gold mortgage product.<sup>20</sup> They found some evidence that pre-purchase housing counseling reduced the likelihood that a borrower would ever become 60 days delinquent on his or her mortgage, and that the method through which the counseling was delivered made a difference in its effectiveness. In particular, borrowers who underwent face-to-face counseling, either individually or in a classroom setting, experienced delinquency at lower rates than borrowers who were counseled over the phone or through self-study.

A 2011 paper from the Research Institute for Housing America, which is affiliated with the Mortgage Bankers Association, reviews several studies of pre-purchase or post-purchase education and counseling conducted over the last 15 years.<sup>21</sup> This review notes that some of these studies (including the Hiram and Zorn study discussed above) indicate that positive effects may be associated with both pre- and post-purchase counseling. However, this paper also stresses that studies of housing counseling are generally not able to be conducted as randomized experiments, making it difficult to definitively attribute any observed positive effects to counseling itself rather than to other factors. Research efforts have also been hampered by a number of additional problems associated with evaluating the effectiveness of housing counseling.<sup>22</sup> For example, some have pointed out that there is a lack of data, and a lack of capacity for collecting data, that track who receives housing counseling and what kind of outcomes they experience. Others have described ongoing issues with designing studies to evaluate housing counseling, such as difficulties in defining exactly what housing counseling is or identifying the kinds of outcomes that would indicate that counseling is effective. The lack of a standard curriculum or method for offering housing counseling also presents challenges for generalizing the effectiveness of any particular housing counseling program to other forms of counseling (see the section on “Standardizing Training and Services” later in this report).

Overall, although housing counseling has not been definitively linked to positive outcomes, there is some evidence that housing counseling can be effective in achieving desirable outcomes for both borrowers and lenders. However, that evidence is largely limited to certain programs or groups of homebuyers, or based on limited outcomes. Most advocates and critics of housing counseling agree that more empirical work is needed on housing counseling’s effects on housing outcomes.

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<sup>19</sup> Ibid., p. 5.

<sup>20</sup> Hiram Abdighani and Peter M. Zorn, “A Little Knowledge Is a Good Thing: Empirical Evidence of the Effectiveness of Pre-Purchase Homeownership Counseling,” Joint Center for Housing Studies of Harvard University, LIHO-01.4, August 2001.

<sup>21</sup> Collins, J. Michael and Collin O’Rourke, “Homeownership Education and Counseling: Do We Know What Works?,” Research Institute for Housing America Special Report, April 2011, [http://www.housingamerica.org/RIHA/RIHA/Publications/76378\\_10554\\_Research\\_RIHA\\_Collins\\_Report.pdf](http://www.housingamerica.org/RIHA/RIHA/Publications/76378_10554_Research_RIHA_Collins_Report.pdf).

<sup>22</sup> For example, see Steven P. Hornburg, “Strengthening the Case for Homeownership Counseling: Moving Beyond ‘A Little Bit of Knowledge,’” Joint Center for Housing Studies of Harvard University, W04-12, December 2004.

## HUD's Housing Counseling Assistance Program

The federal government primarily supports housing counseling through HUD's Housing Counseling Assistance Program. Through this program, HUD certifies housing counseling agencies that meet certain criteria and provides competitive grants to some of these HUD-approved housing counseling agencies.<sup>23</sup> This section begins with a brief overview of the history of HUD's housing counseling program and a description of the different types of housing counseling agencies that HUD certifies. It then explains the criteria housing counseling agencies have to meet to be certified by HUD. Finally, it describes the appropriations and funding process for HUD's housing counseling program.

### Brief History of HUD's Housing Counseling Assistance Program

The legislative authority for HUD's housing counseling program is found at 12 U.S.C. Section 1701x. This section was first established by Section 106 of the Housing and Urban Development Act of 1968 (P.L. 90-448), which authorized the Secretary of HUD to "provide, or contract with public or private organizations to provide" advice and technical assistance on the building or operation of housing for low- and moderate-income families. It did not originally authorize housing counseling, although the same law also authorized the Secretary of HUD to provide, or contract with others to provide, financial counseling services for homebuyers in HUD's newly established Section 235 and Section 237 programs.<sup>24</sup>

In 1970, the Housing and Urban Development Act of 1970 (P.L. 91-609) amended Section 106 of P.L. 90-448 to add counseling for individuals to the list of services the Secretary could choose to provide. Like the technical assistance for nonprofits, this counseling could be provided either directly by HUD or indirectly through contracts with other organizations. Specifically, P.L. 91-609 allowed for counseling of low- and moderate-income families that were assisted through federal housing programs created by the National Housing Act of 1934 and the United States Housing Act of 1937 (namely, FHA mortgage insurance programs and the public housing program).<sup>25</sup> The counseling was to help such families "in improving their living conditions and housing opportunities, and in meeting the responsibilities of homeownership." P.L. 91-609 also authorized appropriations to HUD to carry out these activities.

In 1974, the Housing and Community Development Act of 1974 (P.L. 93-383) explicitly authorized HUD to provide for housing counseling for renters as well as homeowners, and it no longer limited counseling to households assisted by certain housing programs. The law also explicitly authorized HUD to make monetary grants to housing counseling agencies for the first time; instead of merely allowing HUD to "contract with public or private organizations to provide" housing counseling, HUD could now choose to "enter into contracts with, make grants to, and provide other types of assistance to private or public organizations" with the capacity to

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<sup>23</sup> The relevant HUD Handbook is 7610.1.

<sup>24</sup> The Section 235 and Section 237 programs were also created by the Housing and Urban Development Act of 1968. The Section 235 program provided subsidies to creditworthy borrowers with low incomes, while the Section 237 program provided mortgage insurance for borrowers with marginal credit histories. Neither program is operational today.

<sup>25</sup> The National Housing Act created the Federal Housing Administration. It originally created two basic FHA mortgage insurance programs: one program to insure mortgages for single-family housing, and one program to insure mortgages for multi-family housing. Subsequent FHA mortgage insurance programs have been created through amendments to the National Housing Act. The United States Housing Act of 1937 created the public housing program.



carry out housing counseling activities. The law still allowed HUD to provide counseling services directly as well.

Although HUD is authorized to either provide counseling services directly or to contract with other organizations to provide counseling, from the beginning of the program HUD has chosen to support outside organizations that provide housing counseling services rather than to provide counseling directly. HUD originally supported housing counseling solely by certifying housing counseling agencies that met certain requirements, and it has continued to certify housing counseling agencies through the present day.<sup>26</sup> While P.L. 91-609 in 1970 authorized appropriations to HUD that could be used for counseling, and P.L. 93-383 in 1974 authorized HUD to make grants to organizations that provide counseling, Congress did not begin appropriating funding regularly to HUD for housing counseling until FY1977.<sup>27</sup> Since then, Congress has provided funding to HUD for housing counseling in every year except FY2011, when Congress chose not to fund HUD's housing counseling program. HUD has used that funding to competitively award housing counseling grants to some HUD-approved housing counseling agencies.

## **HUD-Approved Housing Counseling Agencies**

This section describes the types of housing counseling agencies that HUD certifies, the process for becoming a HUD-approved housing counseling agency, and the requirements governing counseling programs at HUD-approved housing counseling agencies.

### **Types of HUD-Approved Housing Counseling Agencies**

In order to be eligible for HUD housing counseling grants, an agency must either be certified by HUD or be a state housing finance agency (SHFA). HUD certifies four different types of housing counseling agencies: local housing counseling agencies, multi-state organizations, regional intermediaries, and national intermediaries.

Local housing counseling agencies (LHCAs) and multi-state organizations (MSOs) both provide counseling services directly to clients within limited geographic areas. Local housing counseling agencies are defined by HUD as agencies with one main office and one or more branch offices in no more than two contiguous states. Multi-state agencies are agencies that have one main office and one or more branch offices in two or more states. Both of these types of agencies apply directly to HUD if they wish to receive HUD counseling funds, and they carry out their housing counseling programs directly.<sup>28</sup>

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<sup>26</sup> Regulations governing HUD's housing counseling program are at 24 C.F.R. Part 214. These regulations outline the requirements of the housing counseling program, including the eligibility criteria that housing counseling agencies must meet in order to gain and maintain approval by HUD and to apply for HUD housing counseling grants.

<sup>27</sup> Congress did provide funding for HUD to use for a demonstration housing counseling program in FY1972. According to the FY1974 HUD Budget Summary, this appropriation was used to fund a default counseling demonstration program, to provide a training program for housing counseling agency staff, and to evaluate how well counseling prevented mortgage defaults and foreclosures. See U.S. Department of Housing and Urban Development, Summary of the HUD Budget FY1974, p. HM-8.

<sup>28</sup> See 24 C.F.R. §214.3 for HUD's definitions of each type of housing counseling agency. See also the discussion included in U.S. Department of Housing and Urban Development, "Housing Counseling Program Final Rule," 72 *Federal Register* 55638, September 28, 2007.

Regional intermediaries and national intermediaries provide counseling services through a network of branches and affiliates that cover a broader geographic area. (See the text box on this page for the difference between branches and affiliates.) Regional intermediaries are defined by HUD as agencies that carry out their housing counseling programs through a network of branches and affiliates in a “generally recognized” region of the country (such as New England or the Southwest). National intermediaries are similar to regional intermediaries, but they serve multiple regions of the country. Rather than carry out counseling directly, both types of intermediaries provide administrative and financial support services (such as funding, training, and other types of assistance) to their branches and affiliates, which in turn provide housing counseling directly to individuals. One significant function of intermediaries is to apply for or receive HUD funding, and then pass that funding through to their branches and affiliates.

### What Are Branches and Affiliates?

A **branch** is a housing counseling organization that is affiliated with an LHCA, MSO, regional intermediary, or national intermediary, but is not incorporated separately. Branches are subordinate offices of the parent organization, but are part of the same organization.

An **affiliate** is a housing counseling organization that provides services through a regional or national intermediary (or state housing finance agency), but is incorporated separately.

In addition to LCHAs, MSOs, and intermediaries, SHFAs are also eligible to apply for HUD housing counseling funding. According to the National Council of State Housing Agencies (NCSHA), an industry group, SHFAs “are state-chartered authorities established to help meet the affordable housing needs of the residents of their states.”<sup>29</sup> SHFAs usually administer a variety of federal- and state-supported housing programs in their respective states. They do not have to be certified by HUD in order to apply for or receive HUD housing counseling funding.

## HUD Approval Process for Housing Counseling Agencies

Housing counseling agencies that are certified by HUD receive a certificate of HUD approval, are listed on HUD’s website, and are eligible to apply for HUD housing counseling funds. The application process for HUD approval differs slightly for LHCAs, MSOs, and national and regional intermediaries, but the basic requirements for HUD approval are the same for all housing counseling organizations.

All four types of housing counseling agencies must meet the following criteria in order to be certified by HUD:<sup>30</sup>

- **Nonprofit Organization:** The agency must be a tax-exempt private or public nonprofit organization, or must be a unit of local, county, or state government that is authorized to provide housing counseling.
- **Experience:** The agency must have at least one year of experience providing housing counseling services, and agencies applying to be intermediaries must have at least one year of experience acting in an intermediary role.
- **Geographic Area:** The agency must have operated in the geographic area where it plans to provide housing counseling for at least one year.
- **Resources:** The agency must have adequate resources to carry out its proposed housing counseling plan as of the date of HUD approval, even if it does not

<sup>29</sup> See the “About HFAs” section of the National Council of State Housing Agencies website at <http://www.ncsha.org/section.cfm/3>.

<sup>30</sup> The requirements for HUD approval are at 24 C.F.R. §214.103.



- receive HUD funding. Adequate resources include funding, trained staff with at least six months of experience in the capacity they will be filling, and any language skills necessary to serve the local population.
- **Facilities:** The agency must have appropriate facilities to carry out its housing counseling program.
  - **Familiarity with Housing Programs:** The agency's relevant staff members must be familiar with housing programs, including HUD's housing programs, and with local housing market conditions.
  - **Relationships with Community Resources:** The agency must have working relationships with other resources in the community in case clients need to be referred to other organizations.
  - **Reporting and Monitoring:** The agency must have reporting and monitoring systems in place in order to collect information on clients and activities for review by HUD. The agency must use an automated client management system that can work with HUD's databases.
  - **Conduct:** The agency and people associated with the agency must not be suspended or debarred under federal regulations, indicted for or convicted of a crime that limits the agency's ability to undertake a counseling program, or be subject to unresolved findings in a federal investigation.
  - **Direct Provision of Counseling:** The agency must carry out its housing counseling program directly, rather than contracting with other organizations to carry out the program, except in certain approved circumstances.<sup>31</sup> (An approved circumstance in which this requirement does not apply is agreements between intermediary organizations and their affiliates.)
  - **State and Local Requirements:** The agency (and its branches and affiliates) must meet all applicable state and local requirements.

The application process for HUD approval is slightly different for LHCA's than it is for MSOs and national and regional intermediaries. An agency applying for HUD approval as a LHCA submits a preliminary application and a final application to a regional HUD Homeownership Center<sup>32</sup> and takes part in an application conference with HUD. An agency applying to be a national or regional intermediary or an MSO submits a single application to HUD headquarters. If a housing counseling agency meets all of the required criteria and its final application is approved by HUD, the agency becomes a HUD-approved housing counseling organization.

Housing counseling agencies that are approved by HUD are approved for up to three years. Housing counseling agencies do not need to reapply for HUD's approval at the end of the three years; rather, HUD-approved housing counseling agencies are subject to periodic performance reviews by HUD. Housing counseling agencies may be unconditionally reapproved, conditionally reapproved, placed on inactive status, or terminated from the HUD housing counseling program based on these performance reviews.

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<sup>31</sup> These circumstances are (1) to serve geographic areas with no HUD-approved housing counseling agencies, (2) agreements between intermediaries or SHFAs and their affiliates, and (3) in certain circumstances, agreements between intermediaries and affiliated counselors.

<sup>32</sup> HUD's Homeownership Centers are regional offices that oversee FHA-insured mortgages and the selling of HUD-owned homes. The Homeownership Centers are headquartered in Atlanta, Philadelphia, Denver, and Santa Ana, CA. For information on which Homeownership Center serves which states, see HUD's website at <http://www.hud.gov/offices/hsg/sfh/hoc/hsghoc.cfm>.

Branch offices and affiliates of HUD-approved agencies do not need to be separately approved by HUD. Instead, the parent office of a branch or affiliate must ensure that its branches and affiliates meet all of the criteria for HUD approval. A LHCA, MSO, or intermediary applying for HUD approval includes its branches and affiliates on its application, and an intermediary applying for HUD housing counseling funds must include in its application which branches or affiliates will receive funding.

State housing finance agencies do not have to apply for HUD approval in order to be eligible for HUD housing counseling funds.

### Housing Counseling Programs at HUD-Approved Agencies

HUD-approved housing counseling agencies are expected to provide individualized, face-to-face counseling to prospective homebuyers, current homeowners, and tenants. While the agencies can provide telephone counseling if that is better for both the counselor and the client, they must offer face-to-face counseling if the client prefers that format. Agencies are permitted to offer group educational sessions, but they must also offer individualized counseling on the topics covered in group education sessions.<sup>33</sup>

HUD-approved housing counseling agencies are required to serve any clients referred to them by HUD or other participating organizations; if they cannot provide the specific services the client needs or do not have adequate resources, they must refer the client to another HUD-approved housing counseling agency in the same area, if possible.

HUD-approved agencies may charge clients fees for counseling under certain circumstances, but they must provide counseling free of charge for clients who are unable to pay. Agencies may not charge fees to clients for any portion of counseling services that is already funded through a HUD grant. HUD-approved housing counseling agencies can also accept fees from lenders, but the agency must disclose any such fees to the client.

Each HUD-approved agency is required to submit to HUD a housing counseling work plan. The housing counseling work plan outlines which types of counseling the agency intends to provide in response to the needs of the geographic community that the agency, and any of its branches or affiliates, serves. Each HUD-approved agency must counsel a minimum of 30 clients per year, except that there is no minimum for agencies that only offer counseling on reverse mortgages.

## Appropriations

Congress began appropriating funding regularly to HUD for housing counseling in FY1977, and continued to do so in every subsequent year except FY2011. (Congress also appropriated funding for HUD to fund a demonstration counseling program in FY1972.) Appropriations fluctuate from year to year, but as **Figure 1** shows, funding for housing counseling generally stayed flat during the 1980s, trended upward in the 1990s, and rose sharply in FY2003. After remaining generally flat for the next few years, housing counseling appropriations began rising again in FY2008, and rose each year until FY2011, when Congress did not provide any funding for HUD's housing counseling program. Congress again provided funding to HUD for housing counseling in FY2012, although in a lower amount than in the years immediately preceding FY2011. See **Table**

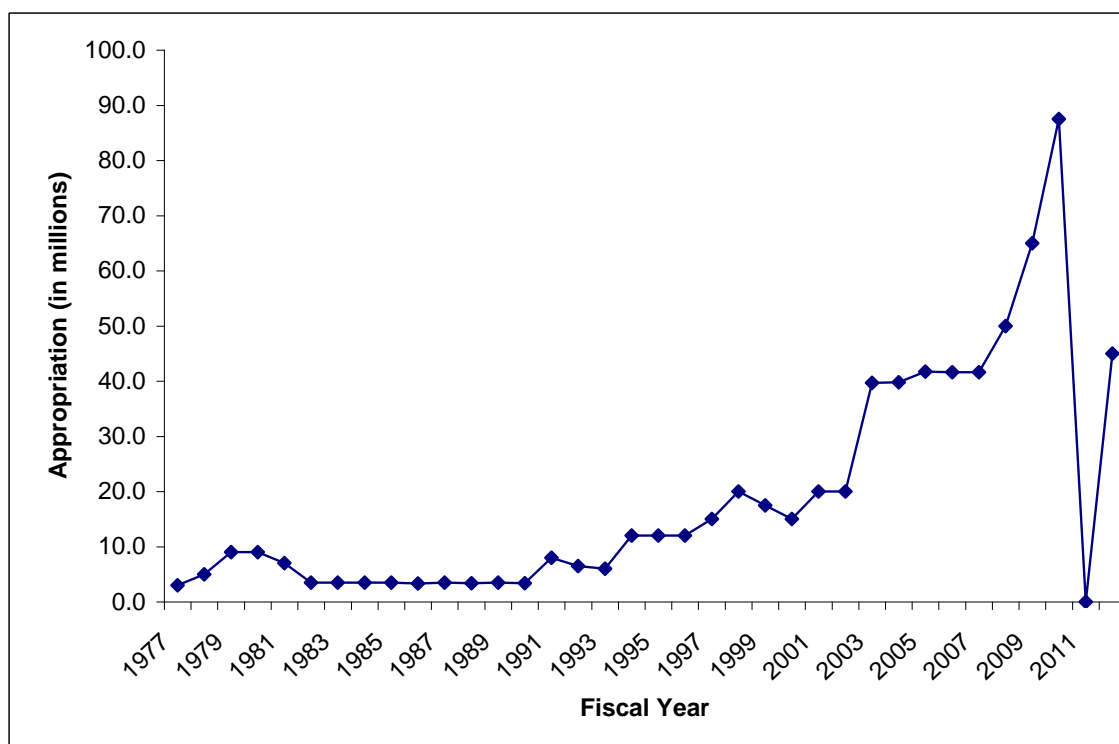
#### Finding a HUD-Approved Housing Counselor

A person seeking housing counseling can find a HUD-approved housing counseling agency in his or her area by calling (800) 569-4287 or by searching online at <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>.

<sup>33</sup> See 24 C.F.R. §214.300 for HUD's housing counseling program requirements.

A-1 in the **Appendix** for the congressional appropriation for HUD's housing counseling program in each fiscal year since FY1977.<sup>34</sup>

**Figure I. Appropriations for HUD Housing Counseling, FY1977–FY2012**  
(dollars in millions)



**Source:** Chart created by CRS based on HUD's Congressional Budget Justifications from FY1979–FY2012; P.L. 111-117; P.L. 112-10; and P.L. 112-55.

**Notes:** Totals include rescissions. HUD also received an appropriation of \$3.25 million in FY1972 to fund a demonstration counseling program.

Policymakers' interest in housing counseling has fluctuated over the years in response to specific housing program results, housing policy goals, or housing market conditions. This is often reflected in the amount of appropriations for housing counseling. For example, interest in housing counseling increased in the 1990s, when national housing policy goals began to focus on increasing homeownership rates, particularly among low-income and minority groups.<sup>35</sup> New requirements that encouraged mortgage lending to underserved populations led to greater interest in lending to borrowers who traditionally found it more difficult to get a mortgage. These new requirements included those imposed by amendments to the Community Reinvestment Act, and by Fannie Mae's and Freddie Mac's Affordable Housing Goals, which HUD (and now the Federal Housing Finance Agency) was required to set by the Federal Housing Enterprises

<sup>34</sup> In FY1996, housing counseling was funded as a set-aside in the Community Development Block Grants (CDBG) account in the HUD budget. Between FY1997 and FY2008, housing counseling was funded as a set-aside within the HOME Investment Partnerships Program account. Beginning in FY2009, Congress returned to funding HUD's housing counseling program through its own account.

<sup>35</sup> For example, the Clinton Administration's National Homeownership Strategy attempted to raise the homeownership rate for underserved populations in particular, and homeownership counseling was a recognized part of that strategy. See "The National Homeownership Strategy: Partners in the American Dream," available at <http://web.archive.org/web/20010106203500/www.huduser.org/publications/affhsg/homeown/chap1.html>.

Financial Safety and Soundness Act of 1992. As a result of this increased interest in lending to underserved populations, lenders and other mortgage market participants that offered or insured loan products for low-income and minority borrowers became interested in counseling as a way to identify borrowers who were likely to sustain homeownership and to help homeowners who encountered problems to avoid foreclosure. Perhaps in response to these trends, congressional appropriations for housing counseling rose throughout the mid- to late 1990s (see **Figure 1**). Appropriations increased significantly again in FY2003, when HUD's budget justifications cited a variety of reasons for the need for increased funding, including the high demand for housing counseling and housing counseling funding, the need to provide more funds for housing counseling training, and the need to provide counseling in support of new or proposed homeownership initiatives.<sup>36</sup>

Congressional appropriations for housing counseling rose dramatically in FY2008, FY2009, and FY2010. It is likely that the increase in appropriations for housing counseling in these years was largely a response to the increase in foreclosures that began in 2006. Policymakers might respond to increased foreclosures by appropriating more funding for housing counseling for two distinct reasons. First, policymakers might choose to appropriate more funding for delinquency and default counseling in an attempt to help more homeowners avoid foreclosure now. Second, policymakers may view increased funding for pre-purchase counseling as a way to assist new borrowers in avoiding problems that could lead to foreclosure, thereby preventing similarly large numbers of foreclosures in the future.

In FY2011, Congress did not provide funding for HUD's housing counseling program. This partly reflected the fiscal environment for discretionary spending when the final FY2011 appropriations law passed.<sup>37</sup> Some policymakers have also expressed concern over the length of time that HUD takes to distribute housing counseling funds.<sup>38</sup> Often, a given fiscal year's appropriation for housing counseling is not distributed to housing counseling agencies until the following fiscal year. For example, HUD announced its FY2010 housing counseling awards in December 2010, after FY2011 had already begun.<sup>39</sup> Critics of HUD's housing counseling program also argued that the funding was duplicative of funding that has recently been provided to NeighborWorks America for foreclosure mitigation counseling (see the "National Foreclosure

<sup>36</sup> U.S. Department of Housing and Urban Development, Congressional Budget Justifications for FY2003, Part II, p. C-2, available at [http://archives.hud.gov/budget/fy03/cjs/part\\_2/housing/housingcounselassist.pdf](http://archives.hud.gov/budget/fy03/cjs/part_2/housing/housingcounselassist.pdf). The new homeownership initiatives that HUD expected would increase the demand for counseling included its new Section 8 homeownership program (described earlier in this report); increased funding for the Self-Help Homeownership Opportunity Program (SHOP); a proposed downpayment assistance initiative, which became the now-defunct American Dream Downpayment Initiative and was funded through the HOME account for a number of years; and a proposed tax credit for affordable housing developers.

<sup>37</sup> FY2011 HUD appropriations were included in P.L. 112-10, a full-year continuing resolution (CR) that was enacted on April 15, 2011. This followed a number of short-term CRs that had funded the government from the beginning of the fiscal year.

<sup>38</sup> For a discussion of these concerns, see U.S. Congress, House Committee on Appropriations, Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, *Budget Hearing - Housing Counseling with Neighborhood Reinvestment Corporation - Deputy Assistant Secretary for Single Family Housing and NeighborWorks Acting CEO*, 112<sup>th</sup> Cong., 1<sup>st</sup> sess., March 29, 2011; and U.S. Congress, House Committee on Appropriations, Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, *Departments of Transportation, Housing and Urban Development, and Related Agencies Appropriations Bill, 2010*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., July 22, 2009, H.Rept. 111-218.

<sup>39</sup> U.S. Department of Housing and Urban Development, "Obama Administration Announces Nearly \$73 Million in Counseling Grants to Help Families Find and Keep Housing," press release, December 23, 2010, [http://portal.hud.gov/hudportal/HUD?src=/press/press\\_releases\\_media\\_advisories/2010/HUDNo.10-269](http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2010/HUDNo.10-269).

Mitigation Counseling Program” section, below.)<sup>40</sup> However, proponents of HUD’s housing counseling program point out that the HUD funding can be used for a wider variety of types of counseling than the NeighborWorks funding, which is limited to foreclosure mitigation counseling.

The FY2012 HUD appropriations law (P.L. 112-55) provided \$45 million for HUD’s housing counseling program in FY2012. Other than FY2011, when no funding was provided, this is the lowest level of funding provided for HUD’s housing counseling program since FY2007, when the program received about \$42 million. P.L. 112-55 required HUD to award these funds to counseling agencies within 120 days of November 18, 2011, the date the law was enacted. HUD announced the funding awards on March 16, 2012.<sup>41</sup>

For FY2013, the President’s budget requests \$55 million for housing counseling, \$10 million higher than the FY2012-enacted appropriation.

## **Funding Process**

Housing counseling agencies must be certified by HUD in order to be eligible to receive HUD’s competitive housing counseling grants. However, not all HUD-certified housing counseling agencies will be awarded HUD grants. Each year, HUD announces grant opportunities for its housing counseling funds in a Notice of Funding Availability (NOFA). HUD-approved housing counseling agencies are invited to apply for housing counseling grants for specific categories of counseling. HUD then awards the grants competitively to HUD-approved housing counseling agencies. For example, an organization might receive a grant for comprehensive counseling services, or it might receive a grant for a specific type of counseling such as HECM counseling. HUD sets maximum grant amounts that a single organization can receive.

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<sup>40</sup> See U.S. Congress, House Committee on Appropriations, Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, *Budget Hearing - Housing Counseling with Neighborhood Reinvestment Corporation - Deputy Assistant Secretary for Single Family Housing and NeighborWorks Acting CEO*, 112<sup>th</sup> Cong., 1<sup>st</sup> sess., March 29, 2011.

<sup>41</sup> U.S. Department of Housing and Urban Development, “HUD Announces More Than \$42 Million in Counseling Grants to Help Families Find and Keep Housing,” press release, March 16, 2012, [http://portal.hud.gov/hudportal/HUD?src=/press/press\\_releases\\_media\\_advisories/2012/HUDNo.12-055](http://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2012/HUDNo.12-055).

### Who Are HUD-Approved Intermediaries?

In FY2012, 27 national and regional intermediaries received HUD housing counseling grants. Examples of intermediaries receiving funding in FY2012 include the following organizations:

Catholic Charities USA  
 Homeownership Preservation Foundation  
 National Association of Real Estate Brokers  
 National Council of La Raza  
 National Council on Aging  
 National Foundation for Credit Counseling  
 National Urban League  
 NeighborWorks® America  
 Rural Community Assistance Corporation

LHCAs and MSOs apply for HUD grants directly and, if they receive grants, use the funding to help carry out their direct housing counseling programs. National and regional intermediaries that receive HUD grants pass on the funding that they receive to their branches or affiliates. (Branches and affiliates must be included on the intermediary's application for HUD funding.) Branches and affiliates of HUD-approved intermediaries that receive pass-throughs of housing counseling funds are not required to be independently approved by HUD. However, the intermediaries must ensure that their branches and affiliates meet all of the requirements for HUD approval.

Some branches or affiliates of HUD-approved intermediaries may also be HUD-certified as LHCAs or MSOs. Such agencies may apply for HUD housing counseling grants directly, or they may be part of a HUD intermediary's

application for funds, but they may not "double dip" by applying for housing counseling funds both ways in the same year. A local housing counseling agency may wish to receive funding as a branch or affiliate of an intermediary, rather than applying for funding itself, for a number of reasons. For example, it may believe that it can receive more funding as a branch or affiliate of an intermediary, or it may find the application process less cumbersome than applying to HUD directly.

Agencies that apply for HUD housing counseling funds are evaluated on the basis of criteria outlined in HUD's NOFA. These criteria generally include the agency's capacity and ability to engage in counseling; the need for counseling in the geographic area where the agency operates; the "quality and effectiveness" of the agency's housing counseling program; the agency's ability to leverage other public and private resources for its housing counseling program; and program results.<sup>42</sup> Agencies receive points for each of these criteria, and only those agencies that are awarded a minimum number of points are eligible for HUD funding. Agencies then receive a grant that is based on the number of points they were awarded. Grant amounts awarded are usually the lower of either the agency's request for funding or an amount based on the points scored by the agency.

## HUD Housing Counseling Funding Trends

This section describes current trends related to the distribution of HUD's housing counseling grants. It looks at the amount of funding the average HUD-approved housing counseling agency has tended to receive from HUD in recent years, as well as trends in funding for different types of agencies and different types of counseling.

<sup>42</sup> For example, see the Program Section of HUD's FY2012 Notice of Funding Availability (NOFA) for the Housing Counseling Program, available at <http://portal.hud.gov/hudportal/documents/huddoc?id=2012hcpnofa.pdf>.

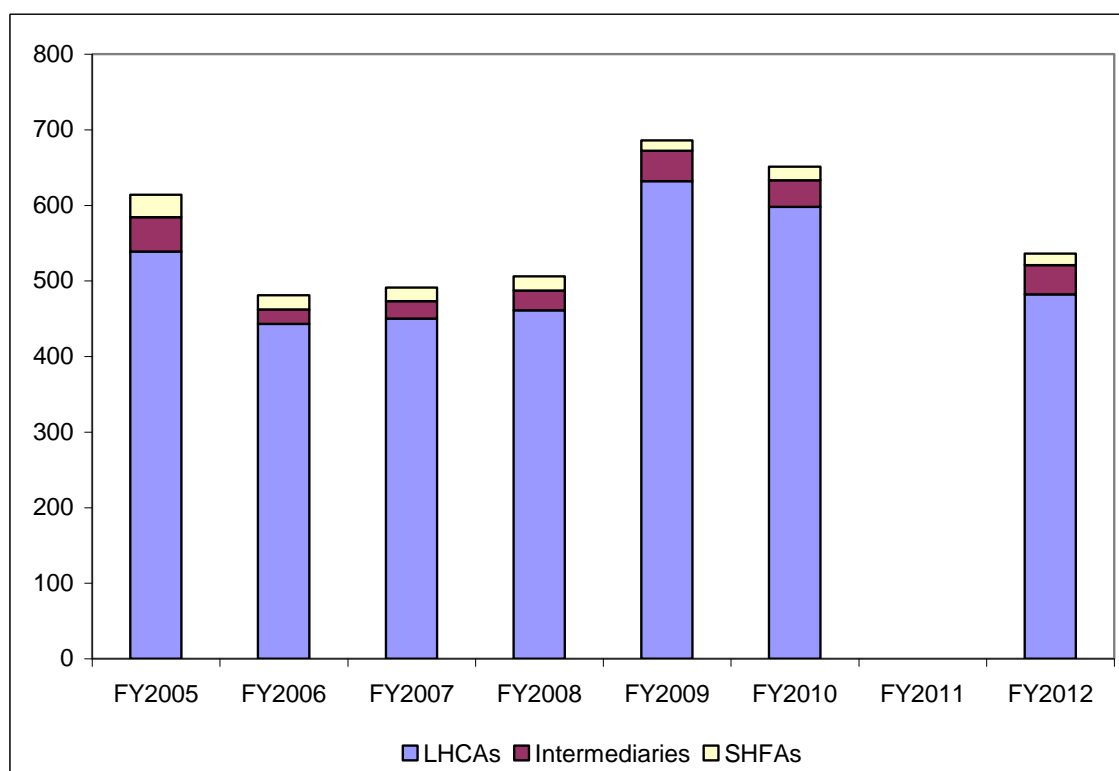


## Which Agencies Receive Housing Counseling Funding from HUD?

The number of housing counseling grants that HUD distributes tends to fluctuate from year to year. Sometimes, this is due to changes in the amount of funding that is appropriated to HUD for housing counseling activities. Other times, HUD may choose to fund more agencies at a smaller average grant size, or fewer agencies at a larger average grant size. HUD may also choose to provide more or fewer grants for specific types of counseling. Notably, the number of distinct organizations that receive HUD grants often differs from the number of grants awarded, since some organizations may receive more than one HUD grant if they receive funding for multiple types of housing counseling. For example, a single organization may receive one grant for comprehensive counseling services, and another grant specifically for HECM counseling.

In FY2012, HUD awarded a total of nearly 540 housing counseling grants to LHCAs, intermediaries, and SHFAs. This was about 100 fewer grants than HUD awarded in FY2010, when HUD awarded about 650 housing counseling grants. **Figure 2** illustrates the total number of HUD housing counseling grants awarded in each fiscal year between FY2004 and FY2012, as well as the breakdown between the number of grants awarded to local housing counseling agencies, intermediaries, and state housing finance agencies. The vast majority of grants are generally awarded to local housing counseling agencies. In FY2012, about 480 of the grants were awarded to LHCAs or MSOs, while almost 40 grants were awarded to intermediaries, and 15 grants were awarded to SHFAs.

**Figure 2. Number of HUD Housing Counseling Grants by Agency Type, FY2005–FY2012**



**Source:** Figure created by CRS based on data from the U.S. Department of Housing and Urban Development, HUD Housing Counseling Grantee reports, available at [http://www.hud.gov/offices/hsg/sfh/hcc/hcc\\_home.cfm](http://www.hud.gov/offices/hsg/sfh/hcc/hcc_home.cfm).



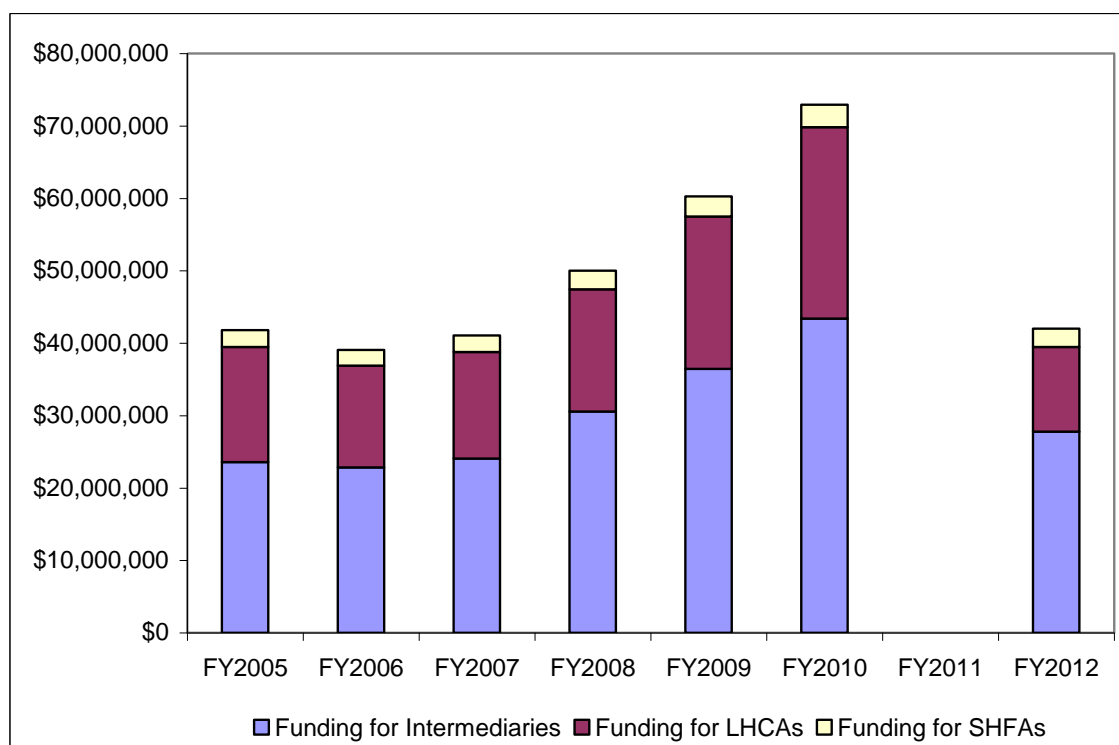
**Notes:** These data represent the total number of grants made, not the number of grantees. Some organizations may receive multiple grants in a given year. MSOs are included with LHCAs. No funding was provided for HUD's housing counseling program in FY2011.

Because one housing counseling agency can receive grants for multiple types of counseling, the number of distinct organizations receiving HUD housing counseling funding is different than the total number of grants awarded. The number of distinct agencies receiving HUD funding remained fairly steady between FY2004 and FY2008, ranging from a low of about 360 distinct organizations in FY2004 to a high of about 420 in FY2006. In FY2009, the number of distinct housing counseling agencies receiving HUD funding rose to nearly 500, and in FY2010 the number rose to nearly 515, before falling to about 470 distinct agencies receiving funding in FY2012.

## How Much HUD Funding Do Counseling Agencies Receive?

Although intermediaries receive a much smaller total number of grants than local housing counseling agencies, they generally receive a larger total amount of funding from HUD. SHFAs tend to receive the least total amount of HUD funding each year. This relative distribution of funds has held even as the total amount of funding for HUD housing counseling has increased. In FY2012, intermediaries received almost \$28 million, LHCAs received almost \$12 million, and SHFAs received about \$2.5 million. **Figure 3** shows the total amount of funding that HUD awarded to each type of agency in each year between FY2004 and FY2012.

**Figure 3. Amount of HUD Funding by Type of Counseling Agency, FY2005–FY2012**



**Source:** Figure created by CRS based on data from HUD's Housing Counseling Grantee reports.

**Notes:** No funding was provided for HUD's housing counseling program in FY2011.

In FY2012, the average grant size for an intermediary was about \$700,000. The average grant size for an LHCA was about \$24,000, and the average grant size for an SHFA was about \$168,000. These were lower than the average grant amounts in FY2010, reflecting the lower amount of funding appropriated for housing counseling in FY2012.

## **How Are HUD Housing Counseling Funds Used?**

### **Types of Grants**

By far, the largest number of housing counseling grants that HUD awards are for comprehensive counseling (meaning that they can be used for all kinds of housing counseling). HUD also awards some grants for particular types of counseling.

Funding for comprehensive counseling increased as appropriations to the housing counseling program increased, rising from nearly \$31.5 million in FY2004 to nearly \$54 million in FY2010 before falling to about \$36 million in FY2012. In general, the number of grants made for comprehensive counseling increased as well, from about 360 grants in FY2004 to about 510 grants in FY2010, before falling to nearly 470 grants in FY2012. The average grant size for comprehensive counseling has fluctuated between those years, from a low of about \$77,000 in FY2012 to a high of over \$107,000 in FY2008.

There are several reasons why the average grant size for comprehensive counseling may fluctuate from year to year. More money appropriated for housing counseling could mean that more money is available for comprehensive counseling. In years when less funding is awarded for specialized types of counseling (described next), this could also potentially leave more funding to be distributed for comprehensive counseling. However, a larger number of grants being made for agencies to undertake comprehensive counseling could serve to reduce the average grant size, even as total funding for comprehensive counseling is increasing.

The amount of funding that HUD awarded for specialized types of counseling has varied in recent years. HUD's total awards for specialized counseling have varied from a low of \$3 million in FY2006 to a high of nearly \$19 million in FY2010. The types of counseling for which HUD awards specialized grants have also changed over this time period. In FY2004, HUD awarded grants for homeownership voucher counseling, predatory lending counseling, and counseling in the colonias.<sup>43</sup> HUD also awarded funding for these three types of counseling in FY2005, along with grants for HECM counseling. In FY2006, the only specialized grants that HUD awarded were for HECM counseling. In FY2007 and FY2008, HUD awarded funding for both HECM counseling and housing counseling training, and in FY2009, HUD awarded funding for both of these types of counseling as well as loan document review counseling. In FY2010, HUD awarded funding for HECM counseling, housing counseling training, and Mortgage Modification and Mortgage Scams Assistance (MMSA) counseling. In FY2012, HECM counseling and housing counseling training were the only specialized types of counseling for which HUD awarded grants.

In FY2012, HUD awarded a total of almost \$4 million to 57 local housing counseling agencies and 9 intermediaries for HECM counseling. HUD also awarded a total of \$2 million for housing counseling training to three intermediaries in FY2012.

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<sup>43</sup> There are many definitions of colonias, but they are generally rural, economically distressed residential communities that lack basic physical infrastructure. They are primarily found in Texas along the border with Mexico, but also exist in Arizona, New Mexico, and California. For more information, see the Colonias Frequently Asked Questions on the website of the Texas Secretary of State at <http://www.sos.state.tx.us/border/colonias/faqs.shtml>.

## **Types of Counseling Activities**

In recent years, the majority of housing counseling activities<sup>44</sup> carried out by HUD-approved housing counseling agencies have consisted of some type of homeownership counseling (pre-purchase counseling, mortgage delinquency counseling, or other types of post-purchase counseling). This includes all counseling activities that were carried out by an agency, including those that are not directly attributed to HUD funding. In FY2010, about 85% of counseling activities assisted with HUD housing counseling grants consisted of pre-purchase counseling, mortgage delinquency counseling, or other post-purchase counseling. In FY2010, this percentage dropped slightly, but counseling related to homeownership still accounted for over 80% of counseling activities.<sup>45</sup>

Not surprisingly, over the last few years mortgage delinquency counseling made up the largest proportion of homeownership counseling and of counseling activities more generally. In FY2010, mortgage delinquency counseling accounted for about 65% of total counseling activities at HUD-approved agencies. (Given that these figures include all counseling activities at HUD-approved agencies, and not just activities assisted with HUD funds, many of the activities funded through the NFMCP are likely captured in these numbers as well.) Pre-purchase counseling and rental counseling each accounted for between 10% and 15% of total counseling activities, while other post-purchase counseling accounted for just under 10%, and homelessness counseling accounted for under 2%. In FY2011, the percentage of total counseling activities that were for mortgage delinquency counseling was down slightly, to about 56%. Pre-purchase counseling, other post-purchase counseling, and rental counseling all accounted for between 10% and 15%, while homelessness counseling was just over 2%. The total number of counseling units provided by HUD-approved agencies was down in FY2011, to 1.4 million from about 2.2 million.

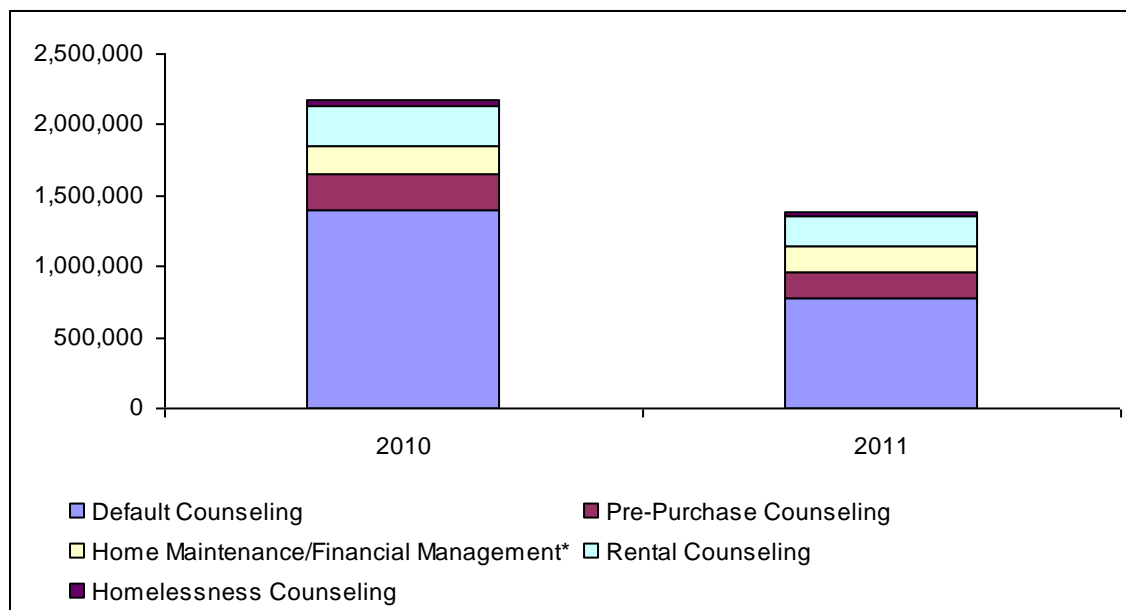
**Figure 4** shows the breakdown of counseling activities carried out by HUD-approved housing counseling agencies in both FY2010 and FY2011.

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<sup>44</sup> HUD requires all HUD-approved housing counseling agencies (including those that do not receive HUD funding in a given year) to submit data on their counseling activities to HUD each fiscal year. Counseling for a single individual or household unit is reported as a single counseling activity until that file is closed; if the same individual or household later seeks counseling again, the second round of counseling will be reported as a second counseling activity. Therefore, a single person or household could be included in an agency's data more than once. More information on how counseling agencies are to report their counseling activities to HUD is available on HUD's website at <http://www.hud.gov/offices/hsg/sfh/hcc/9902faqs.pdf>.

<sup>45</sup> Information on counseling activities in this section comes from HUD's Form 9902 Cumulative Reports for FY2010 and FY2011, available on HUD's website at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/sfh/hcc/hcc\\_home](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/hcc/hcc_home).

**Figure 4. Number of Counseling Activities Carried Out by HUD-Approved Housing Counseling Agencies, FY2010 and FY2011**



**Source:** Figure created by CRS using data from the U.S. Department of Housing and Urban Development, HUD-9902 Cumulative Reports, FY2010 and FY2011.

## Other Federal Funding for Housing Counseling

While the federal government primarily provides financial support for housing counseling through appropriations to HUD's housing counseling program, it also provides some funding for housing counseling through other sources. Some funding for other HUD programs can be used for housing counseling in certain situations. Outside of HUD, other sources of federal funds for housing counseling include funding appropriated to NeighborWorks America, and programs administered through the Department of Veterans Affairs, the Department of the Treasury, and the Department of Defense. Over the past two years, NeighborWorks in particular has taken on a larger role in housing counseling by administering federal funding for foreclosure mitigation counseling through the National Foreclosure Mitigation Counseling Program.

## Other HUD Funding

In some cases, housing counseling is an eligible use of funds that are appropriated to HUD for programs other than the Housing Counseling Assistance Program. Most notably, HUD's two largest block grant programs, the Community Development Block Grant (CDBG) Program and the HOME Investment Partnerships Program, allow funding to be used for housing counseling under certain circumstances. Funds from these block grant programs are allocated to states and certain localities based on a formula, and states and localities choose how to use the funds. HOME funds can be used for a wide range of affordable housing activities, while CDBG funds

can be used for a broader set of community development activities (CDBG funds can be used for some affordable housing activities, but these activities are restricted).<sup>46</sup>

States and localities can choose to use some HOME or CDBG funds for housing counseling in certain situations. HOME funds can be used for housing counseling, but generally these funds must be used to counsel homeowners who will benefit from HOME-assisted housing. A limited amount of HOME funds can be used to support a broader housing counseling program.<sup>47</sup>

Similarly, CDBG funds can be used for housing counseling, although most CDBG funds for housing counseling must also be used in support of HOME-assisted projects. CDBG funds can also be used specifically for fair housing counseling, without having to be used in support of HOME projects.<sup>48</sup>

## NeighborWorks America

NeighborWorks America was established by Congress as the Neighborhood Reinvestment Corporation in the Housing and Community Development Amendments of 1978 (P.L. 95-557). NeighborWorks is a government-chartered, nonprofit corporation with a national network of affiliated organizations that engage in a variety of community revitalization activities, such as generating investment in communities and providing training and technical assistance related to affordable housing. The organization began operating under the name NeighborWorks America in 2005, although its legal name remains the Neighborhood Reinvestment Corporation.

NeighborWorks has a national network of more than 235 NeighborWorks organizations operating in all 50 states, the District of Columbia, and Puerto Rico.<sup>49</sup> In order to become a NeighborWorks affiliate, an organization must meet a number of criteria and pass a detailed on-site inspection.<sup>50</sup> The process of becoming a NeighborWorks affiliate, from application to becoming a chartered member, can take up to two years. An organization generally must be a NeighborWorks affiliate to be eligible to receive funding or technical assistance from NeighborWorks.

In recent years, NeighborWorks has received a congressional appropriation for the National Foreclosure Mitigation Counseling Program, which is described below. However, NeighborWorks supports housing counseling in a number of other ways. First, NeighborWorks receives a regular congressional appropriation every year, which is completely separate from the recent funding it has received for the National Foreclosure Mitigation Counseling Program. NeighborWorks uses this regular appropriation to provide grants, training, and technical assistance to its network of NeighborWorks affiliates. NeighborWorks affiliates carry out a variety of activities, many of

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<sup>46</sup> For more information on HOME, see CRS Report R40118, *An Overview of the HOME Investment Partnerships Program*, by Katie Jones. For information on eligible activities using HOME funds, see 24 C.F.R. §92.206. For a clarification on the circumstances under which HOME funds can be used for housing counseling, see HUD Community Planning and Development HOMEfires Vol. 1, No. 1, June 1, 1997, available at <http://www.hud.gov/offices/cpd/affordablehousing/library/homefires/volumes/vol1no1.cfm>. For more information on CDBG, see HUD's website at <http://www.hud.gov/offices/cpd/communitydevelopment/programs/>. For information on basic eligible activities under CDBG, see 24 C.F.R. §570.201.

<sup>47</sup> HUD Handbook 7610.1 Rev-4, Chapter 1, Section 1-1 J.

<sup>48</sup> Ibid. See also U.S. Department of Housing and Urban Development Community Planning and Development, *Guide to National Objectives and Eligible Activities for State CDBG Programs*, Chapter 2, available at <http://www.hud.gov/offices/cpd/communitydevelopment/library/statguide/>.

<sup>49</sup> These figures are taken from NeighborWorks's FY2010 Congressional Budget Justifications. A list of NeighborWorks organizations is available on the NeighborWorks website at <http://nw.org/network/nwdata/NeighborWorksOrganizations.asp>.

<sup>50</sup> The eligibility criteria that are considered when an organization applies to become a NeighborWorks affiliate are described on the NeighborWorks website at <http://nw.org/network/aboutus/member/process.asp>.

which are focused on housing, and housing counseling is one type of activity that NeighborWorks affiliates may engage in. While some portion of NeighborWorks's regular annual appropriation may be used for housing counseling activities, no part of it is dedicated specifically to housing counseling.

In addition to its own congressional appropriation, NeighborWorks is a HUD-approved national intermediary and often receives housing counseling grants from HUD. As an intermediary, NeighborWorks passes this funding on to its affiliated organizations.

NeighborWorks is also a leader in the field of housing counseling training. Its role in providing training is described further in the "Standardizing Training and Services" section in this report.

### **National Foreclosure Mitigation Counseling Program (NFMCP)**

Separately from its regular appropriation and its role as a HUD-approved intermediary, NeighborWorks in recent years has administered funding provided by Congress specifically for foreclosure mitigation counseling. The number of homes entering the foreclosure process in the United States began to rise in the middle of 2006. As the increase in homes at risk of foreclosure continued, Congress began providing funding for housing counseling for borrowers at risk of default or foreclosure. Congress directed NeighborWorks to administer this funding, and the program became known as the National Foreclosure Mitigation Counseling Program (NFMCP). Funding for the NFMCP is separate from the regular annual appropriation to the NeighborWorks organization.

NeighborWorks competitively distributes NFMCP funding to HUD-approved counseling intermediaries, state housing finance agencies, or NeighborWorks affiliates, who by statute are the only types of organizations eligible to receive funds. (As affiliates of a national intermediary, NeighborWorks organizations must meet the requirements for HUD approval, but they do not necessarily need to be independently approved by HUD.)

Congress first provided funds for the NFMCP in the Consolidated Appropriations Act, 2008. This funding, \$180 million, was about 50% higher than the regular base appropriation that NeighborWorks received in that year. Congress has since provided funding to the NFMCP five additional times, detailed in **Table 1**. Although Congress did not fund HUD's housing counseling program in FY2011, Congress did continue to fund the NFMCP at its FY2010 level. In FY2012, Congress provided more funding to the NFMCP than it had in any of the prior three fiscal years.

**Table I. Funding for the National Foreclosure Mitigation Counseling Program**  
(dollars in millions)

Law	Date Enacted	Appropriation
Consolidated Appropriations Act, 2008 (P.L. 110-161)	December 26, 2007	\$180
Housing and Economic Recovery Act of 2008 (P.L. 110-289)	July 30, 2008	\$180
Omnibus Appropriations Act, 2009 (P.L. 111-8)	March 11, 2009	\$50
Consolidated Appropriations Act, 2010 (P.L. 111-117)	December 16, 2009	\$65
Department of Defense and Full-Year Continuing Appropriations Act, 2011 (P.L. 112-10)	April 15, 2011	\$65
Consolidated and Further Continuing Appropriations Act, 2012 (P.L. 112-55)	November 18, 2011	\$80

**Sources:** P.L. 110-161, P.L. 110-289, P.L. 111-8, P.L. 111-117, P.L. 112-10, P.L. 112-55.

**Notes:** The monies appropriated in P.L. 110-289 included funding for legal assistance for homeowners facing foreclosure.

According to a September 2011 report to Congress, NeighborWorks had distributed the first four rounds of NFMCP funding to over 170 organizations as of June 2011, and these organizations had collectively provided counseling to nearly 1.2 million homeowners.<sup>51</sup> The states that have received the most assistance through the NFMCP, in terms of the percentage of total counseling “units” delivered through the NFMCP, are California, Florida, Ohio, and Illinois.<sup>52</sup> (An individual homeowner may receive more than one unit of counseling.)

## Other Federal Agencies

Other federal agencies provide some limited support or funding for housing counseling, often for specific populations.

### Department of Veterans Affairs

The Department of Veterans Affairs (VA) employs loan counselors through its nine Regional Loan Centers to help veterans who are facing foreclosure or other financial problems. The VA’s counselors will assist veterans whether or not their mortgages are guaranteed by the VA. However, the VA also relies on HUD’s housing counseling program. For example, the VA recommends that veterans who are pursuing VA-guaranteed loans consider participating in pre-purchase counseling with HUD-approved housing counselors, although housing counseling is not a required step in obtaining a VA-insured mortgage.

<sup>51</sup> NeighborWorks America, “National Foreclosure Mitigation Counseling Program Congressional Update,” September 13, 2011, p. 3, available at <http://nw.org/network/nfmcp/documents/2011CongressionalReport.pdf>.

<sup>52</sup> Ibid., pp. 13-14.



## **Department of the Treasury: Financial Education and Counseling Program**

The Housing and Economic Recovery Act of 2008 (P.L. 110-289) directed the Department of the Treasury to create a program to make grants for providing financial literacy counseling to prospective homebuyers.<sup>53</sup> Unlike most financial counseling programs, this program focuses solely on housing-related decisions, and unlike HUD's housing counseling program, this counseling is aimed solely at prospective homebuyers. The program's goal is to help prospective homebuyers learn about a range of financial literacy issues, including budgeting, improving one's credit score, and how to build savings, in order to help prospective homebuyers make better decisions about their finances. P.L. 110-289 specifies that organizations that receive these grants must be either HUD-approved housing counseling agencies or organizations approved by Treasury's Office of Financial Education. (To be certified by the Office of Financial Education, an organization must be a HUD-certified housing counseling agency; a state, local, or tribal government agency; a community development financial institution (CDFI); a credit union; or a collaborative effort between any of these types of entities.) Applicants also need to demonstrate that they have the experience and capacity to carry out a financial education and counseling program.<sup>54</sup>

The Financial Education and Counseling pilot program is being administered by the Community Development Financial Institutions (CDFI) Fund within the Department of the Treasury. In FY2009, Congress provided \$2 million for this program. The CDFI Fund awarded this funding to five agencies in May 2010.<sup>55</sup> In FY2010, Congress provided \$4.15 million for this program, stipulating that \$3.15 million of that amount was to be awarded to an organization in the state of Hawaii. The recipients of this round of funding were announced in October 2010.<sup>56</sup> Congress did not provide funding to this program in FY2011 or FY2012.

## **Department of Defense**

P.L. 110-289 also directed the Department of Defense to set up a foreclosure counseling program for servicemembers returning from active duty abroad.<sup>57</sup> The Department of Defense has implemented procedures for counseling such servicemembers on a range of actions that they can take to avoid foreclosure.<sup>58</sup>

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<sup>53</sup> 12 U.S.C. §1701x note.

<sup>54</sup> For more information on this program, see the U.S. Department of the Treasury's Community Development Financial Institutions Fund webpage on the Financial Education and Counseling Program at [http://www.cdfifund.gov/what\\_we\\_do/programs\\_id.asp?programID=8](http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=8).

<sup>55</sup> The five agencies that received FY2009 funding were the Boulder County Housing Authority in Boulder, CO; the Consumer Credit Counseling Service of WNC in Asheville, NC; the Mission Economic Development Agency in San Francisco; the New Hampshire Housing Finance Authority in Bedford, NH; and Resources for Residents and Communities of Georgia, Inc. in Atlanta. See "U.S. Treasury Awards \$2 million to Benefit Organizations Serving Prospective Homebuyers," press release, May 17, 2010, at [http://www.cdfifund.gov/news\\_events/CDFI-2010-28-USTreasury-Awards-2-Million-to-Benefit-Org.asp](http://www.cdfifund.gov/news_events/CDFI-2010-28-USTreasury-Awards-2-Million-to-Benefit-Org.asp).

<sup>56</sup> The agencies that received FY2010 funding were the Council for Native Hawaiian Advancement in Honolulu, HI; the Greater Erie Community Action Committee in Erie, PA; Homewise, Inc. in Santa Fe, NM; and Solita's House, Inc. in Tampa, FL. See "CDFI Fund Awards \$4.15 million to Organizations Through the FY2010 Financial Education and Counseling Pilot Program," press release, October 22, 2010, at [http://www.cdfifund.gov/news\\_events/CDFI-2010-46-CDFI-Fund-Awards-4-Million-for-Financial-Education-Counseling.asp](http://www.cdfifund.gov/news_events/CDFI-2010-46-CDFI-Fund-Awards-4-Million-for-Financial-Education-Counseling.asp).

<sup>57</sup> 10 U.S.C. §992 note.

<sup>58</sup> See Department of Defense Instruction Number 6490.06, "Counseling Services for DoD Military, Guard and Reserve, Certain Affiliated Personnel, and Their Family Members," April 21, 2009, p. 8.

## FHA Demonstration Program on Pre-purchase Counseling

P.L. 110-289 also directed HUD to conduct a demonstration program on the effectiveness of pre-purchase counseling.<sup>59</sup> The demonstration is intended to examine the effectiveness of different forms of housing counseling, including telephone, face-to-face, web-based, and classroom counseling. The demonstration is to include no more than 3,000 first-time homebuyers per year who have been approved for loans insured by the Federal Housing Administration (FHA) with loan-to-value ratios between 97% and 98.5%. According to the law, the demonstration would end on July 30, 2011, three years after P.L. 110-289 was enacted.

HUD's FY2010 and FY2011 budget justifications both discuss using funding set aside for HUD's proposed Transformation Initiative to carry out this pre-purchase counseling demonstration.<sup>60</sup> Near the end of 2011, HUD contracted with Abt Associates to carry out such a pre-purchase counseling study. According to Abt and HUD, the study will involve 4,000 first-time homebuyers, and will begin enrolling participants sometime in 2012.<sup>61</sup>

## Funding Makeup of HUD-Approved Housing Counseling Agencies

Securing adequate funding is often an issue for housing counseling agencies. HUD expects that HUD-approved housing counseling agencies will have sources of funding other than HUD grants. As mentioned earlier in this report, HUD-approved counseling agencies are not guaranteed HUD housing counseling funding. A September 2008 report by Abt Associates includes information on HUD-approved agencies' other sources of funding, based on a survey of such agencies conducted in 2007.<sup>62</sup> The Abt report found that while HUD funding was the largest single source of funding among the HUD-approved respondents it surveyed, this only accounted for 13.5% of agencies' total funding. This does not mean that individual agencies do not rely on HUD funding to a larger degree, but among all HUD-approved agencies, HUD housing counseling funding appears to be a relatively small portion of total funding.

Other sources of funding for housing counseling include funding from other federal programs; state and local governments; financial institutions; foundations; the agency itself or, for subgrantees, from an intermediary; public housing authorities; and the government-sponsored enterprises (Fannie Mae, Freddie Mac, and the Federal Home Loan Banks). As of July 2007, the amount of total funding that survey respondents as a whole received from these other sources ranged from under 1.5% (from the GSEs) to nearly 12.5% (from state governments). **Figure 5**

<sup>59</sup> 12 U.S.C. §1701x note.

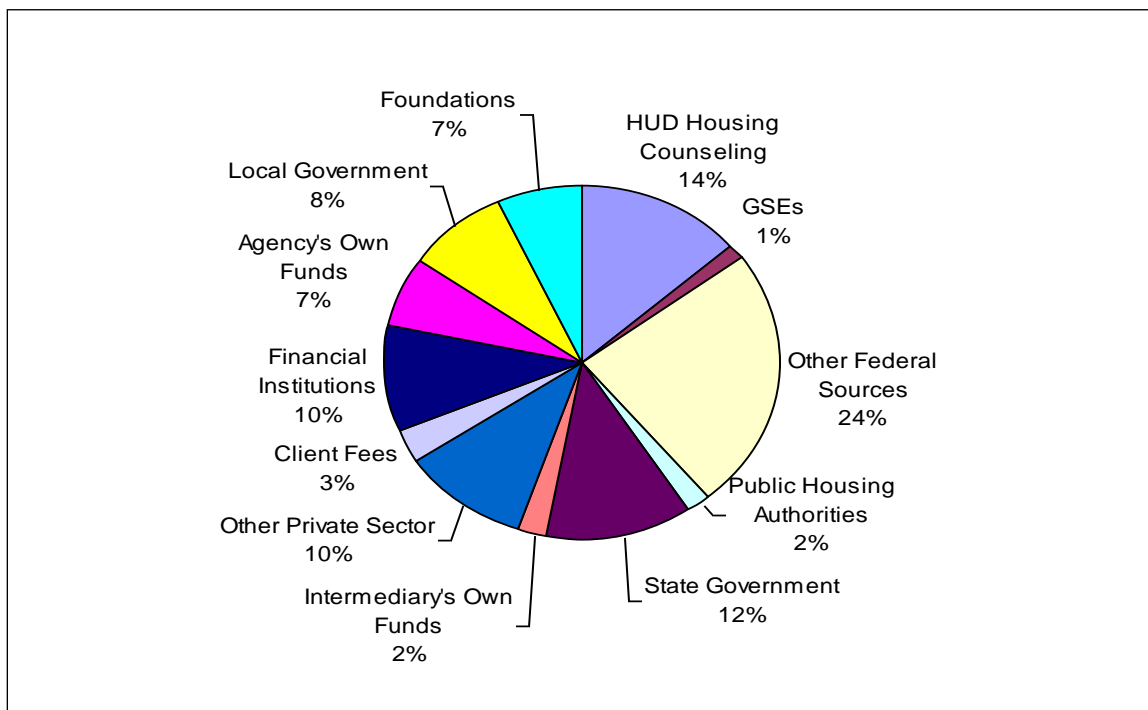
<sup>60</sup> See HUD FY2010 Congressional Budget Justification, pp. C-4 and C-6, and HUD FY2011 Congressional Budget Justification, p. H-6. For more information on HUD's Transformation Initiative, see CRS Report R40727, *The Department of Housing and Urban Development: FY2010 Appropriations*, coordinated by Maggie McCarty.

<sup>61</sup> See Abt Associates, "Study to Examine Influence of Pre-Purchase Counseling on Homebuyers," press release, November 17, 2011, <http://www.abtassociates.com/NewsReleases/2011/11-17-Pre-Purchase-HUD.aspx>; U.S. Department of Housing and Urban Development, "Notice of Proposed Information Collection for Public Comment: Pre-Purchase Homeownership Counseling Demonstration and Impact Evaluation," 76 *Federal Register* 64367-64368, October 18, 2011; and U.S. Department of Housing and Urban Development, *Congressional Justifications for FY2013 Estimates*, page C-25, <http://portal.hud.gov/hudportal/documents/huddoc?id=transformation-int-2013.pdf>.

<sup>62</sup> Christopher E. Herbert, Jennifer Turnham, and Christopher N. Rodger, "The State of the Housing Counseling Industry," prepared for the U.S. Department of Housing and Urban Development by Abt Associates, Inc., September 2008, pp. 60-61, available at [http://www.huduser.org/Publications/PDF/hsg\\_counsel.pdf](http://www.huduser.org/Publications/PDF/hsg_counsel.pdf).

illustrates the wide variety of sources from which HUD-approved housing counseling agencies receive funding.

**Figure 5. Sources of Funds for Housing Counseling Programs at HUD-Approved Agencies**



**Source:** Graph created by CRS based on data from Abt Associates.

As was described earlier in this report, funds from HUD's two largest block grant programs, the HOME program and CDBG, can be used for housing counseling in some circumstances. (See the "Other HUD Funding" section earlier in this report.) The Abt report separates HOME and CDBG funding from each other and from other federal sources of housing counseling funding in its analysis of funding sources. When these additional federal sources are all combined into one category, HUD-approved housing counseling agencies in aggregate receive just under 25% of their funding from federal sources other than HUD's housing counseling program. Along with the funding that these agencies do receive from HUD's housing counseling program, federal sources account for about 37.5% of agencies' funding.

As the Abt report shows, fees from clients comprise a small portion of HUD-approved agencies' overall funding. HUD-approved counseling agencies were not permitted to charge fees for counseling prior to the issuance of the Housing Counseling Program Final Rule in 2007. In the Final Rule, HUD changed its previous policy and stated that HUD-approved housing counseling agencies can charge clients reasonable fees for counseling services as long as the fee does not impose an undue hardship on the client, and as long as nobody is turned away from the agency because of an inability to pay the fee. The Final Rule changed HUD's policy on housing counseling agencies receiving fees from lenders as well; now, agencies can receive fees from lenders as long as there is no conflict of interest, and as long as the fact that the agency is receiving funding from a lender is disclosed to the client.

## Current Issues in Housing Counseling

This section briefly describes current issues related to the housing counseling industry as a whole.

### Standardizing Training and Services

Many observers and industry participants agree that there is a lack of standardization in the housing counseling industry. This lack of standardization applies to both training procedures for housing counselors and curricula for the counseling itself. While HUD certifies housing counseling agencies that meet its requirements, it does not currently certify individual housing counselors, and there is no agreement on what standards individual counselors should have to meet if they were to be certified. In addition, there is no standard curriculum for conducting housing counseling sessions. There is not even widespread agreement on basic aspects of housing counseling, such as what constitutes housing counseling as opposed to education, or which forms housing counseling should take.

Other concerns surrounding the lack of standardization among housing counseling agencies are the possibilities that some counseling agencies could be prone to offering poor advice, may experience conflicts of interest, or could engage in outright fraud. It is not always clear whether an agency is working on the client's behalf rather than the lender's. The possibility exists that some organizations that pose as counseling agencies may be illegitimate, or that legitimate counseling agencies may not be working solely in the best interests of the client. Standardizing training and approval processes for both organizations and individual counselors may strengthen the ability of the industry to deter problems such as these. Approval by HUD, NeighborWorks, or another widely acknowledged organization can also help guide people to experienced, vetted housing counseling agencies.

The lack of standardization among housing counseling providers has led to a variety of efforts to develop industry-wide standards. Some of these efforts have been driven by the housing counseling and/or mortgage finance industries themselves, while others have been driven by the federal government. This section briefly describes some of these efforts.

### Industry Groups

In 1996, Fannie Mae started the American Homeowner Education and Counseling Institute (AHECI), which brought together various stakeholders in the mortgage lending industry to attempt to develop housing counseling standards. AHECI had five stated goals: (1) establishing national accreditation standards for housing counseling providers, (2) developing a core housing counseling curriculum, (3) researching the costs and benefits associated with housing counseling, (4) establishing means for self-financing housing counseling, and (5) establishing a housing counseling "informational clearinghouse."<sup>63</sup> Despite making some progress on its goals, such as releasing a blueprint for a core housing counseling curriculum, the organization no longer exists today.

To some extent, AHECI has been succeeded by NeighborWorks's Center for Homeownership Education and Counseling (NCHEC), which works to establish standards for housing counseling curricula and the certification of housing counselors. For example, NCHEC convened an advisory

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<sup>63</sup> George W. McCarthy and Roberto G. Quercia, "Bridging the Gap between Supply and Demand: The Evolution of the Homeownership, Education and Counseling Industry," The Research Institute for Housing America, Institute Report No. 00-01, May 2000, p. 22.

council to develop the National Industry Standards for Homeownership Education and Counseling, which were created by, and have been adopted by, a number of prominent housing counseling organizations.<sup>64</sup> NeighborWorks is also a leading provider of housing counseling training.<sup>65</sup>

Finally, the National Association of Housing Counselors and Agencies (NAHCA) is an organization made up of housing counseling agencies that provides training, testing, certification, and technical assistance to housing counselors and counseling agencies nationwide.

### **Standardized Requirements for HUD-Approved HECM Counselors**

On September 2, 2009, HUD published a Final Rule specifying requirements for counselors who provide HECM counseling.<sup>66</sup> The rule established a HECM Counselor Roster and required that homeowners applying for HECMs receive counseling from a counselor on the HECM Counselor Roster. In order to be eligible for the HECM Counselor Roster, a HECM counselor must (1) be employed by a HUD-approved housing counseling agency (or such an agency's affiliate) or an SHFA, (2) have passed a standardized HECM counseling exam within the last three years, and (3) have received HECM-related training within the past two years. HECM counselors must also have access to technology that allows HUD to track counseling results, and they may not be on the General Services Administration's Suspension and Debarment list or on HUD's Limited Denial of Participation list or Credit Alert Interactive Response System.

### **Housing Counselors and the SAFE Act**

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008, or the SAFE Mortgage Licensing Act, was passed as part of the Housing and Economic Recovery Act of 2008 (P.L. 110-289). The SAFE Act requires states to set licensing and registration requirements for mortgage originators that meet minimum standards set forth in the law. The SAFE Act also directs HUD to implement a licensing and registration system for mortgage originators in any state that does not meet the minimum requirements of the law. On July 21, 2011, responsibility for the SAFE Act transferred from HUD and the federal banking regulators to the Consumer Financial Protection Bureau (CFPB), which was established by the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203).

HUD issued a Proposed Rule on the SAFE Act on December 15, 2009,<sup>67</sup> and a Final Rule on June 30, 2011,<sup>68</sup> implementing the minimum standards for licensing and registration of mortgage originators in the law and the procedures HUD would use in the event that a state is not compliant with the requirements. Some housing counseling agencies submitted comments in response to the Proposed Rule expressing concern that the rule could be interpreted to cover housing counselors that are involved in pre-purchase or foreclosure mitigation counseling under the requirements of the SAFE Act, thereby requiring them to comply with licensing and registration requirements.

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<sup>64</sup> For more information on the National Industry Standards for Homeownership Education and Counseling, see <http://www.homeownershipstandards.com/>.

<sup>65</sup> For training opportunities offered by NeighborWorks, see <http://nw.org/network/training/homeownership/default.asp>.

<sup>66</sup> U.S. Department of Housing and Urban Development, "Home Equity Conversion Mortgage (HECM) Counseling Standardization and Roster," 74 *Federal Register* 45311-45317, September 2, 2009. See also 24 C.F.R. Part 206.

<sup>67</sup> See Department of Housing and Urban Development, "SAFE Mortgage Licensing Act: HUD Responsibilities Under the SAFE Act; Proposed Rule," 74 *Federal Register* 66548-66562, December 15, 2009.

<sup>68</sup> U.S. Department of Housing and Urban Development, "SAFE Mortgage Licensing Act: Minimum Licensing Standards and Oversight Responsibilities: Final Rule," 76 *Federal Register* 38464-38501, June 30, 2011.

The housing counseling agencies argued that the costs and burden of complying with the requirements of the SAFE Act could result in fewer people receiving housing counseling services or in some housing counseling agencies having to close.<sup>69</sup>

Addressing these comments in the preamble to its Final Rule, HUD emphasized that the rule applies to anyone who engages in the business of a loan originator, and that it had no authority to exempt individuals who engaged in the functions of a loan originator, regardless of his or her job title.<sup>70</sup> However, HUD also noted that traditional housing counseling activities would not seem to fall under the definition of originating a loan, although it is possible that certain types of activities that counselors might engage in—such as acting as an intermediary between a borrower and a source of financing, or presenting loan terms to borrowers—could be considered loan origination and require the individuals engaged in such functions to comply with the SAFE Act. The Final Rule did exempt employees of state housing finance agencies and government agencies that engage in the business of a loan originator, and employees of bona fide nonprofit organizations who engage in the business of a residential mortgage originator for public or charitable purposes. It also left it up to the CFPB to decide whether loan modification activities constituted engaging in the business of a loan originator.

In December 2011, the CFPB published an interim final rule with request for public comment implementing the provisions of the SAFE Act. The interim final rule is substantially similar to the rules that had been promulgated by HUD and the federal banking regulators prior to the authority to implement the SAFE Act transferring to the CFPB.<sup>71</sup> The rule became effective on December 30, 2011, and the comment period closed on February 17, 2012.

## **The Role of Housing Counseling in Foreclosure Prevention**

Ever since mortgage delinquency and foreclosure rates began to rise around the middle of 2006, some policymakers and other observers have focused on housing counseling as a potential way to reduce delinquencies and foreclosures. Several housing counseling agencies have undertaken specific initiatives to address delinquency and foreclosure issues. One example is NeighborWorks, which in addition to administering the National Foreclosure Mitigation Counseling Program has created a Center for Foreclosure Solutions in response to increasing foreclosure rates. The Center for Foreclosure Solutions provides counselor training, certification, and research on foreclosure solutions. Another example of a housing counseling agency specifically addressing foreclosure issues is the Homeownership Preservation Foundation, a HUD-approved intermediary, which has set up a hotline to assist homeowners facing foreclosure (the hotline number is 888-995-HOPE). This hotline was originally associated with the Hope Now Alliance, an organization of mortgage industry participants that formed to address the increase in default and foreclosure rates. The hotline is now also used to connect homeowners with counselors that can assist them in applying for the Administration's flagship foreclosure prevention program, the Home Affordable Modification Program (HAMP).

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<sup>69</sup> NeighborWorks America, "Comments Regarding Proposed Rule: SAFE Mortgage Licensing Act: HUD Responsibilities Under the SAFE Act," March 2, 2010, available at <http://nw.org/network/policy/documents/CommentLettertoHUDreSAFEActProposedRule.pdf>.

<sup>70</sup> U.S. Department of Housing and Urban Development, "SAFE Mortgage Licensing Act: Minimum Licensing Standards and Oversight Responsibilities: Final Rule," 76 *Federal Register* 38478-38479, June 30, 2011.

<sup>71</sup> Consumer Financial Protection Bureau, "S.A.F.E. Mortgage Licensing Act (Regulations G & H)," 76 *Federal Register* 78483-78499, December 19, 2011.



Housing counseling also plays a role in HAMP. HAMP guidelines require that homeowners who receive mortgage modifications through the program and who have total debt-to-income ratios that exceed 55% receive counseling as a condition of the program.<sup>72</sup> Counseling is encouraged, but not required, for other participants in HAMP. Given the requirements for certain borrowers to receive counseling, the interest in the program generally, and the increase in the number of people experiencing mortgage trouble who might want to talk to a housing counselor, counseling agencies may be facing increased demand for their services.

The primary source of funding specifically for foreclosure mitigation housing counseling has been the funding provided to NeighborWorks America for the National Foreclosure Mitigation Counseling Program, described earlier in the “National Foreclosure Mitigation Counseling Program” section of this report. No additional funding was appropriated for counseling borrowers participating in HAMP, but NeighborWorks allows grantees to use a portion of NFMCP funds to counsel HAMP participants.<sup>73</sup> (HAMP participants can also meet the requirement for counseling by receiving counseling from a HUD-approved housing counseling agency.) According to NeighborWorks, between 240,000 and 320,000 HAMP participants with high debt-to-income ratios were expected to be referred to counseling, but fewer referrals than expected have been occurring.<sup>74</sup> NeighborWorks reports that over 7,000 borrowers in HAMP trial modifications had received counseling through the NFMCP through June 30, 2011. The lower-than-expected number of HAMP borrowers receiving counseling through the NFMCP may reflect servicers not consistently referring borrowers to counseling, or borrowers not pursuing counseling despite the requirement, rather than because fewer borrowers than anticipated have high debt-to-income ratios. The average total debt-to-income ratio of participants in the program through February 2012 was over 59% even after a mortgage modification.<sup>75</sup>

In general, securing funding can be an issue among housing counseling agencies. While Congress has often provided increased funding for housing counseling in recent years, both through increased appropriations to HUD’s housing counseling program and funding for NeighborWorks’s NFMCP, it is unclear whether the increase in funding has kept up with increased demand on housing counseling agencies to provide counseling to borrowers facing default or foreclosure. The lack of funding for HUD’s housing counseling program in FY2011 may further increase the burden on housing counseling agencies that are providing such counseling, although Congress again provided funding for the program in FY2012.

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<sup>72</sup> U.S. Department of the Treasury, *Making Home Affordable Program Handbook v3.4*, Section 6.7. The Making Home Affordable Handbook can be accessed at <https://www.hmpadmin.com/portal/index.jsp>.

<sup>73</sup> NeighborWorks America, “National Foreclosure Mitigation Counseling Program Congressional Update,” September 13, 2011, p.9, <http://nw.org/network/nfmcp/documents/2011CongressionalReport.pdf>.

<sup>74</sup> NeighborWorks America, “National Foreclosure Mitigation Counseling Program Congressional Update: Activity Through January 31, 2010,” May 28, 2010, p. 7, <http://nw.org/network/nfmcp/documents/CongressionalReportandAppendices.pdf>.

<sup>75</sup> U.S. Department of the Treasury, “Making Home Affordable Program: Servicer Performance Report through February 2012,” April 6, 2012, p. 6, available at <http://www.treasury.gov/initiatives/financial-stability/results/MHA-Reports/Documents/Feb%202012%20MHA%20Report%20FINAL.pdf>.



## **Housing Counseling Provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act**

The Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), signed into law by President Obama on July 21, 2010, includes a number of provisions related to housing counseling.

The Dodd-Frank Act establishes an Office of Housing Counseling within HUD, and establishes the position of Director of Housing Counseling to head the office and have primary responsibility within HUD for all homeownership and rental housing counseling activities. According to HUD's FY2013 budget justifications, the Office of Housing Counseling is expected to become operational during FY2012.<sup>76</sup>

The Secretary of HUD or the Director of Housing Counseling are directed to undertake a variety of activities to expand housing counseling, set counseling standards, or provide outreach to the public. Specifically, the Secretary is directed to establish standards for materials and forms to be used in connection with homeownership counseling, and to the extent that funds are made available in advance in appropriations acts, to certify software programs that consumers can use to evaluate mortgage products based on their own circumstances. Furthermore, the Secretary is directed to provide advice and technical assistance, including assistance in developing content and materials, to states, localities, and nonprofits to help establish and operate programs to educate consumers on specific types or aspects of mortgages, with a focus on reaching the most vulnerable consumers. The Secretary is also directed to make financial assistance available to HUD-approved housing counseling agencies and SHFAs, and to establish standards and procedures for determining the eligibility of agencies to receive funding. The legislation also directs the Secretary to take any necessary action to inform consumers about the importance and availability of home inspection counseling, and to develop or publish certain materials related to home inspection counseling.

The Director of the Office of Housing Counseling is assigned specific functions, and in particular is directed to establish rules related to a number of provisions in current law, as well rules related to collaborating with community-based organizations with expertise in housing counseling and rules related to building capacity for providing housing counseling in underdeveloped areas. The Director of the Office of Housing Counseling is also directed to undertake a public awareness campaign targeted to certain populations that may benefit from housing counseling.

The Dodd-Frank legislation also requires that only HUD-approved housing counseling agencies provide housing counseling associated with HUD programs.

Finally, as was noted earlier in this report, another section of the Dodd-Frank Act amends the Home Ownership and Equity Protection Act of 1994 (HOEPA), which places certain requirements on mortgages that are deemed to be high-cost due to exceeding certain interest rate and points and fees thresholds. Among other things, the Dodd-Frank Act amends HOEPA to prohibit a lender from making a high-cost mortgage available to a borrower until the lender has received certification that the borrower has been counseled by a HUD-approved housing counselor on the advisability of the mortgage.

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<sup>76</sup> U.S. Department of Housing and Urban Development, *Fiscal Year 2013 Budget: Justifications for Estimates*, page E-1, <http://portal.hud.gov/hudportal/documents/huddoc?id=housing-counseling-2013.pdf>.

## Appendix. HUD Housing Counseling Program Appropriations

**Table A-1. Congressional Appropriations for HUD Housing Counseling, FY1977-FY2012**

(dollars in millions)

Fiscal Year	Appropriation
1977	\$3.0
1978	\$5.0
1979	\$9.0
1980	\$9.0
1981	\$7.0 <sup>a</sup>
1982	\$3.5
1983	\$3.5
1984	\$3.5
1985	\$3.5
1986	\$3.3
1987	\$3.5
1988	\$3.4
1989	\$3.5
1990	\$3.4 <sup>b</sup>
1991	\$8.0
1992	\$6.5
1993	\$6.0
1994	\$12.0
1995	\$12.0
1996	\$12.0
1997	\$15.0
1998	\$20.0
1999	\$17.5
2000	\$15.0
2001	\$20.0
2002	\$20.0
2003	\$39.7
2004	\$39.8
2005	\$41.7
2006	\$41.6

2007	\$41.6
2008	\$50.0
2009	\$65.0
2010	\$87.5
2011	\$0.0
2012	\$45.0

**Sources:** FY1977–FY2009 figures are from HUD’s Congressional Budget Justifications for FY1979–FY2012; FY2010 number is from P.L. 111-117; FY2011 number is from P.L. 112-10; FY2012 number is from P.L. 112-55.

**Notes:** HUD also received an appropriation of \$3.25 million to fund a demonstration counseling program in FY1972. In FY1994, housing counseling was funded as a set-aside within the CDBG account. Between FY1995 and FY2008, housing counseling was funded as a set-aside within the HOME Investment Partnerships Program account. Since then, housing counseling has been funded in its own account. These figures include only HUD’s housing counseling program and do not include funding appropriated to NeighborWorks or any other federal funding for housing counseling.

- a. Appropriation of \$10 million with a \$3 million rescission.
- b. Appropriation of \$3.5 million with \$54,000 rescission.
  - i. Appropriation of \$50 million with a \$38 million rescission. The original appropriation of \$50 million was meant, in part, to help fund a new Community Outreach and Neighborhood Revitalization counseling initiative.

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